This is an amendment to 8.15.2 NMAC Sections 10, 13 and 17 effective August 11, 2020.

8.15.2.10 APPLICATION PROCESS:

A. Clients apply for child care assistance benefits by presenting the following documents to establish eligibility in person at the local child care office. Upon a need or request by the client, the department may approve a client to submit their initial application by fax, email, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Under documented extenuating circumstances and with approval from the early childhood services director, clients may be given longer than 14 days but no more than 30 days to submit required documentation:

1. a completed signed application form;
2. current proof of earned income or participation in the temporary assistance to needy families (TANF) program; social security numbers or assigned TANF identification numbers may be used to verify TANF participation or receipt of child care support;
3. school schedule or verification of educational activity, if applicable;
4. verification of birth for all applicant’s household children;
5. proof of unearned income;
6. proof of New Mexico home address; and
7. CYFD approved provider.

B. Assistance is provided effective the first day of the month of application if all of the following apply:

1. the client is utilizing child care services;
2. the client is employed, attending school or a training program. In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program; and
3. the eligible provider to be paid was providing care from the first day of the month forward.

8.15.2.13 CLIENT RESPONSIBILITIES: Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only while they are working, attending school or participating in a training or educational program.

A. Co-payments: Co-payments are paid by all clients receiving child care assistance benefits, except for CPS child re, at-risk child care, and qualified grandparents or legal guardians as defined in Paragraph (2) of Subsection C of 8.15.2.11 NMAC. in the case of a public health emergency, the department secretary may waive co-payments for families receiving child care. The department will pay providers the client’s approved rate, to include required co-payments, during the time of the public health emergency. Co-payments are determined by income and household size. The co-payment schedule is published yearly at https://cyfd.org/child-care-services.

B. Co-payments described in Subsection A of 8.15.2.13 NMAC, are used for determining the base co-payment. The formula for calculating the co-payment for the first full time child is (low end of the monthly income bracket on the co-payment schedule + 200 percent of annual federal poverty level for household size) X (low end of the monthly income bracket on the co-payment schedule) X 1.1 = monthly copayment for first full time child. Base co-payments for each additional child are determined at one half of the co-payment for the previous child.

(1) The first child is identified as the child requiring the most hours of child care.
(2) Each additional child will be ranked based on the most number of hours needed for child care to the least number of hours needed for child care.

C. Each child’s co-payment will be adjusted based on the units of services described in Subsection E of 8.15.2.17 NMAC, as follows:

1. full time care will be based on one hundred percent of the base co-payment;
2. part time 1 care will be based on seventy-five percent of the base co-payment;
3. part time 2 care will be based on fifty percent of the base co-payment; and
4. part time 3 care will be based on twenty-five percent of the base co-payment.

D. Clients pay co-payments directly to their child care provider and must remain current in their payments. A client who does not pay co-payments may be subject to sanctions.

E. The co-payment for a child shall not exceed the monthly provider reimbursement rate. If this situation arises, the co-payment may be reduced in the amount by which it exceeds the monthly provider reimbursement rate.

F. In-home providers: Parents who choose to use an in-home provider become the employer of the child care provider and must comply with all federal and state requirements related to employers, such as the payment of all federal and state employment taxes and the provision of wage information. Any parent who chooses to employ an in-home provider releases and holds the department harmless from any and all actions resulting from their status as an employer. Payments for in-home provider care are made "directly to the parent.

G. Notification of changes: Clients must notify the department of changes that affect the need for care, which include but are not limited to any non-temporary change in activity, or household members moving in or out, within five business days of the change. Clients who do not comply with this requirement may be sanctioned.

H. Required application with New Mexico human services department’s child support enforcement division (CSED):
(1) When one or both of the child's parents are absent from the home, the client shall apply for child support though CSED within 12 months of initial application with the child care assistance program.

(2) The following exceptions include but are not limited to: the client is receiving TANF; the client is already receiving child support; the client is receiving financial support, including but not limited to housing, clothing, food, transportation and funds, from the non-resident parent; there is a joint custody agreement and neither parent is ordered to pay support; parental rights have been terminated; the parent is a foster parent to the child; the parent is an adoptive parent and provides proof of a single parent adoption; at-risk child care; a parent is temporarily out of the home and is still considered part of the household; the client is a teen parent; the client is a grandparent; guardian; parent is deceased or when good cause exists.

(3) Good cause for refusal to apply may be granted when such application is not in the best interest of the child or parent, including but not limited to the following circumstances:
   (a) there is possible physical or emotional harm to the child, parent or guardian;
   (b) the child was conceived as a result of incest or rape;
   (c) legal proceedings for adoption of the child are pending before a court; or
   (d) the client is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

(4) The applicant or recipient who makes a claim for good cause shall supply written documentation to establish the claim. The caseworker shall not deny, delay, or discontinue subsidized child care benefits pending a determination of good cause if the applicant or recipient has complied with the requirements to furnish information.

(5) If the client is not exempted from applying with CSED and has not applied within the required timeframe, the client's case will be closed.

[8.15.2.13 NMAC - Rp, 8.15.2.13 NMAC, 10/1/2016; A, 1/1/2019; A/E, 03/16/2020; A, 8/11/2020]

8.15.2.17 PAYMENT FOR SERVICES: The department pays child care providers on a monthly basis, according to standard practice for the child care industry. Payment is based upon the child's enrollment with the provider as reflected in the child care placement agreement, rather than daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. The following describes circumstances when placements may be closed and payment discontinued at a time other than the end of the month:

A. When the child care placement agreement expires during the month, or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.

B. Upon a change of provider the client and former provider have three days after the fifth day of nonattendance to notify the department. If this requirement for notification was met, the provider will be paid through the 14th day following the first date of nonattendance. If notification requirement is not met, the provider will be paid through the last date of attendance. The agreement with the new provider shall become effective when payment to the previous provider ceases. If the client notifies the department of the change in providers fewer than 14 days before the change will take place or after the change has taken place, the client is responsible for payment to the new provider beginning on the start date at the new provider and continuing up until the final date of payment to the former provider, as described above. Payment to the former provider will be made through the last day that care is provided if the child is withdrawn from the provider because the health, safety or welfare of the child is at risk, as determined by a substantiated complaint against the child care facility.

C. The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care. The registration/educational fee will discontinue when a placement closes as a result of a client changing providers, a provider discontinuing services, a child care placement agreement expiring, or a provider's license being suspended or expiring.

D. The amount of the payment is based upon the age of the child and average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent at the time of certification and is reflected in the provider agreement. Providers are paid according to the units of service needed which are reflected in the child care agreement covering the certification period.

E. The department pays for care based upon the following units of service:

<table>
<thead>
<tr>
<th>Full time</th>
<th>Part time 1</th>
<th>Part time 2 (only for split custody or in cases where a child may have two providers)</th>
<th>Part time 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Care provided for an average of 30 or more hours per week per month</td>
<td>Care provided for an average of 8-29 hours per week per month</td>
<td>Care provided for an average of 8-19 hours per week per month</td>
<td>Care provided for an average of 7 or less hours per week per month</td>
</tr>
<tr>
<td>Pay at 100% of full time rate</td>
<td>Pay at 75% of full time rate</td>
<td>Pay at 50% of full time rate</td>
<td>Pay at 25% of full time rate</td>
</tr>
</tbody>
</table>
G. Monthly reimbursement rates:

<table>
<thead>
<tr>
<th>Licensed child care centers</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$720.64</td>
<td>$589.55</td>
<td>$490.61</td>
<td>$436.27</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensed group homes (capacity: 7-12)</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$586.07</td>
<td>$487.11</td>
<td>$427.13</td>
<td>$422.74</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensed family homes (capacity: 6 or less)</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$566.98</td>
<td>$463.50</td>
<td>$411.62</td>
<td>$406.83</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Registered homes and in-home child care</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$289.89</td>
<td>$274.56</td>
<td>$251.68</td>
<td>$251.68</td>
</tr>
</tbody>
</table>

H. The department pays a differential rate according to the license or registration status of the provider, national accreditation status of the provider if applicable, and star level status of the provider if applicable. **In the case of a public health emergency, the department secretary may approve a differential rate be paid to licensed providers.**

I. Providers holding and maintaining CYFD approved national accreditation status will receive the differential rate listed in Subsection I. below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain CYFD approved national accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement.

1. Providers who receive national accreditation on or before December 31, 2014 from an accrediting body that is no longer approved by CYFD will no longer have national accreditation status, but will remain eligible to receive an additional $50 per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child until December 31, 2017.

   a. In order to continue at this reimbursement rate until December 31, 2017 a provider holding accreditation from accrediting bodies no longer approved by CYFD must maintain licensing standards and maintain accreditation without a lapse.

   b. If the provider fails to maintain their accreditation, the provider reimbursement will revert to the base reimbursement rate unless they have achieved a FOCUS star level or regain national accreditation status approved by CYFD.

2. The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee’s national accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. All providers are required to notify the department immediately when a change in accreditation status occurs.

J. The department will pay a differential rate per child per month for full time care above the base reimbursement rate to providers achieving higher Star levels by meeting FOCUS essential elements of quality as follows:

<table>
<thead>
<tr>
<th>2+ Star FOCUS Child Care Centers, Licensed Family and Group Homes</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$88.00</td>
<td>$88.00</td>
<td>$88.00</td>
<td>$88.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3 Star FOCUS Child Care Centers, Licensed Family and Group Homes</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$100.00</td>
<td>$100.00</td>
<td>$100.00</td>
<td>$100.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4 Star FOCUS Licensed Family and Group Homes</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$180.00</td>
<td>$180.00</td>
<td>$180.00</td>
<td>$180.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5 Star FOCUS or CYFD approved national accreditation Licensed Family and Group Homes</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$250.00</td>
<td>$250.00</td>
<td>$250.00</td>
<td>$250.00</td>
</tr>
</tbody>
</table>
### Amendment

<table>
<thead>
<tr>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>$280.00</td>
<td>$280.00</td>
<td>$250.00</td>
<td>$180.00</td>
</tr>
</tbody>
</table>

5 Star FOCUS or CYFD approved national accreditation Child Care Centers

<table>
<thead>
<tr>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>$550.00</td>
<td>$550.00</td>
<td>$350.00</td>
<td>$250.00</td>
</tr>
</tbody>
</table>

**K.** In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level criteria, the provider reimbursement will revert to the FOCUS criteria level demonstrated.

**L.** Differential rates determined by achieving higher star levels determined by AIM HIGH essential elements of quality will be discontinued effective December 31, 2017. The department will pay a differential rate to providers achieving higher star levels determined by the AIM HIGH essential elements of quality until December 31, 2017 as follows: 3-Star at $88.00 per month per child for full time care above the base reimbursement rate; 4-Star at $122.50 per month per child for full time care above the base reimbursement rate, and 5-Star at $150.00 per child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must maintain and meet most recent AIM HIGH star criteria and basic licensing requirements. If the provider fails to meet the requirements, this will result in the provider reimbursement reverting to the base reimbursement rate.

**M.** The department pays a differential rate equivalent to five percent, ten percent or fifteen percent of the applicable full-time/part-time rate to providers who provide care during non-traditional hours. Non-traditional care will be paid according to the following charts:

<table>
<thead>
<tr>
<th></th>
<th>1-10 hrs/wk</th>
<th>11-20 hrs/wk</th>
<th>21 or more hrs/wk</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>After hours</strong></td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>1-10 hrs/wk</th>
<th>11-20 hrs/wk</th>
<th>21 or more hrs/wk</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weekend hours</strong></td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
</tbody>
</table>

**N.** If a significant change occurs in the client’s circumstances, (see Subsection G of 8.15.2.13 NMAC) the child care placement agreement may be modified and the rate of payment is adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.

**O.** The department may conduct provider or parent audits to assess that the approved service units are consistent with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.

**P.** Payments are made to the provider for the period covered in the placement agreement or based on the availability of funds.

[8.15.2.17 NMAC - Rp, 8.15.2.17 NMAC, 10/1/2016; A, 10/1/2019, A/E, 03/16/2020; A, 8/11/2020]
### NMAC Transmittal Form

**Volume:** XXXI  **Issue:** 15  **Publication date:** 8/11/2020  **Number of pages:** 5  **(ALD Use Only) Sequence No.**

**Issuing agency name and address:**
Children, Youth and Families

**Agency DFA code:**
611

**Contact person's name:** Debra Gonzales  
**Phone number:** (505) 231-5820  
**E-mail address:** Debra.Gonzales@state.nm.us

**Type of rule action:** Repeal  
**New**  
**Amendment**  
**Repeal**  
**Emergency**  
**Renumber**

**Title number:** 8  
**Title name:** SOCIAL SERVICES

**Chapter number:** 15  
**Chapter name:** CHILD CARE ASSISTANCE

**Part number:** 2  
**Part name:** REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS

**Amendment description (If filing an amendment):** Amending 3 sections

**Amendment's NMAC citation (If filing an amendment):** Sections 10, 13, and 17 of 8.15.2 NMAC

**Are there any materials incorporated by reference?** Yes  
**No**

**Please list attachments or Internet sites if applicable:**

**If materials are attached, has copyright permission been received?** Yes  
**No**  
**Public domain**

**Specific statutory or other authority authorizing rulemaking:**
Section 9-2A-7 NMSA 1978:

**Notice date(s):** June 9, 2020  
**Hearing date(s):** July 14, 2020  
**Rule adoption date:**  
**Rule effective date:** August 11, 2020
Concise Explanatory Statement For Rulemaking Adoption:
Findings required for rulemaking adoption:

Findings MUST include:
- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

Reason for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency:
The purpose of the rulemaking is to promulgate amendments to 8.15.2 NMAC, which were initially published as emergency rules effective March 16, 2020. Due to the COVID-19 outbreak and the resulting executive orders and declarations, there was an emergency need for these amendments. The amendments to 8.15.2 NMAC, as published, allow the department secretary the following authority during a public health emergency: to waive the requirements for employment, attending school or a training program; to waive co-payments for families receiving child care and pay the provider the clients approved rate; and to approve a differential rate be paid to licensed providers.

Reasons for any change between between the published proposed rule and the final rule: There are no changes between the published rule and the final rule.

Please see attached document for reasons for not accepting substantive arguments made through public comments.

Issuing authority (If delegated, authority letter must be on file with ALD):
Name: Elizabeth Groginsky
Title: Secretary
Signature: (BLACK ink only) Elizabeth Groginsky

Check if authority has been delegated X

Date signed: 7/30/20

8/12/2019
8.15.2 NMAC Public Comment Summary and Department Responses

Written Comment 1: Please make sure that the sec is only able to pay a differential rate that's more not less. The wording makes it sound as if the dept SEC has the right to lower rates or higher rates or pay different rates. The wording needs to be more clear in that it doesn't give the dept sec the right to lower anyone's rate. I see from experience the dept makes decisions that aren't always for the better of the long term of the dept. So I want to make sure that the dept doesn't get the right to lower rates due to their flaws in knowing how to handle public emergencies. I worked hard for my star five accredited and I refuse to allow the dept the right to lower my rate.

Response: The changes to NMAC Section 8.15.2 allow the department secretary the following authority during a public health emergency: may waive the requirements for employment, attending school or a training program; may waive co-payments for families receiving child care and pay the provider the client's approved rate; and may approve a differential rate be paid to licensed providers. Any changes to decrease base rates and differential rates based on school level will require a new rule change or emergency rule change.

Written Comment 2: We are sure needing some help out here. As an industry, we needed help before the coronavirus came. Now, we have extra costs because of it. We are still having a hard time employing people to work in this essential environment because of not being monetarily being able to pay them more. None of this has been addressed. There is a ruling that is being done by the CYFD for July 14th that does not raise any pay from our CYFD contracts one bit. We desperately needed the raise to compensate even for the raise in minimum wage increase that we have had since Jan. 1 of this year. Remember the 1.50 raise to the minimum wage? Many of us have been having to use whatever coronavirus relief that we have been getting to basically pay wages that should have already been covered by increasing the CYFD contracts before the raise in minimum wage hit. By saying that we are getting "Hazard Pay" it basically gave some relief to the workers a way to give them monetarily which they should have had Jan 1 of this year.

We are being constantly bombarded with updates that are hard to keep up with. I realize the updates are good but many of us do not have the staff to have a "dedicated person for this task" a lot of the reason is that we don't have the money needed for their wages and I am really hoping that at least some of us are reaching out to you guys as legislative people to help alleviate this problem. We really need be able to hire more people to keep up with sorting all the extra information out, conveying it to parents and helping us to stay in compliance with things the best we can. We have such a workload that increased with not even the basic staffing to care for it much of that has to do with we don't have the monies coming in to suffice getting the job done efficiently. Don't forget, the children are a vital part of our business and much of our time has to be dedicated to them or chaos reigns. We need extra monies to hire extra staffing. We need the extra monies to be able to pay these people appropriately also. Doesn't anyone hear us?

Another issue that desperately needs addressed is that we have been[en] told to have our substitute list ready in case some of our staff test positive on the coronavirus. The trouble with that is that we have been having enough trouble just to keep ourselves staffed regularly. I must have hired 8 girls last year for the same position. Not everyone has the stamina or the want to to care for children. The substitute pool is virtually nonexistent for many of us. Also, if we have to shut down for two weeks because of the corona virus, what are we to do for income? Is our staff supposed to be paid and from what? What do we have to pay them from? We have been basically trying to pay their 9.00 an hour wage. If we don't have money coming in for those two weeks, there isn't really anything to pay their wages with, is there? Has this need been addressed? What are we supposed to do? What about our clientele? Are they just to hop from provider to provider? Our whole clientele is at risk and at risk for virtually not coming back. That means our businesses could be forced to start from scratch. I am afraid that would mean not a lot of money coming in to even pay for wages again. All of these issues need addressed in the special session.

What if this happens a second time to us? What then. Please respond to this email when you receive it and let me know what is being done to care for these issues.
On page 6 and 7 of the proposal that has been sent forth for public comments contains old information. In there, it states stuff that was there from 2017 as regards CYFD contract amounts. It shows no raises of any sort that has taken into account that we have had inflation over the years, let alone the 20% increase in the minimum wage that happened in Jan. These CYFD contracts need to be raised immediately to off set the wage increase that has already happened. For licensed providers such as myself that have to depend on pulling 3 wages out of my business, I need at least 75.00 increase a kid in order to just stay at the place that I was Dec. 2019. Also, we need to address what will happen again Jan 1 of 2021 when we increase wages another 1.50. The contracts are going to have to go up again in order for us to maintain that rate of pay or it will potentially run us out of business. We can't always guarantee that we will be able to hold the contracts that can bear the most potential for us. We also can't always guarantee that we will remain full. To remain viable in business, we need to be able to run efficiently on 75% of our potential. This allows us for needed repairs, growth and such for the business which is basically going to be able to help our families to thrive and prosper.

Please address each and every issue that is outlined here. These issues are so important for not only our businesses but ultimately it is the children and families that we serve. If things don't add up well as they have been outlined for you, they will not add up well for our communities either.

Response: We appreciate the comments provided and look forward to engaging with stakeholders about these issues in the future. At this point, we are not making changes based on these comments because they do not relate to the proposed changes to these regulations. The changes to NMAC Section 8.15.2 allow the department secretary the following authority during a public health emergency: may waive the requirements for employment, attending school or a training program; may waive co-payments for families receiving child care and pay the provider the clients approved rate; and may approve a differential rate be paid to licensed providers. The Early Childhood Education and Care Department (ECECD) utilized CARES Act funding to support the following:

- Provided a $250 differential for every child care assistance contract for centers that remained open during the months of March and April 2020
- Continued to pay child care providers for all child care contracts regardless of whether the facility is open or closed. Pay based on enrollment, not attendance March through June 2020
- Paid for child care for essential employees (health care professionals, first responders and others) March through June 2020
  - Provided child care stabilization and recovery grants to all licensed facilities
  - Provided no touch thermometers to licensed child care facilities and registered homes throughout state

Written Comment 2- Part 2: I operate a home childcare center that is Nationally Accredited. I have a total staff of 3, including myself and we care for 10 children. Recently, we have had some big changes across the state of New Mexico. There has been a 20% raise in the minimum wage Jan. 1 2020. This has had a really big impact on our childcare business. We have had our business for 15 years. For the last 13 years, we have been Nationally Accredited along with holding a NM State Accreditation since, NM has started doing accreditations. Our childcare business is largely supported by our state CYFD contracts mainly because we just can't generate the revenue in our rural area from private pay to effectively pay for things like wages and overhead costs.

We are experiencing the dual effect of State budgetary levels not keeping pace with the mandated wage increases. Even prior to the recent January 1, 2020 event, there also needs to be addressed the effect of not having state CYFD contracts rise in about 4 years to even counteract normal yearly inflation rates. That in itself, had left our budgets going in reverse. This combined effect of not keeping state CYFD contracts current in line according to the rate of inflation plus, adding the 20% wage increase on top of it, as this has been mandated statewide without the due compensation from the state, has been devastating. I suspect this effect has been widespread over New Mexico's rural areas. One of the basic principles in life that most of us learn is that when mistakes have been made that actually hurt other people, honest people stop and make adjustments quickly. They don't just look the other way or pretend that the problem doesn't exist. In this case, if you don't do something quickly to fix this problem, you would be pretending that the crisis that rural NM childcare industry has been thrown into simply does not exist.
There is much overhead to running a childcare business. We have basic things to consider, such as, some children are rougher on things than other children. This, in itself, makes for more maintenance than even what would be necessary if all children that came in were easy on equipment and/or supplies. The utility bills alone can be enormous. More examples are that my water bill can run easily about $250 a month in the summer time because we have grounds to keep up plus, we have a lot of general water use. In other months, it still costs a pretty penny with all the toilet flushing, hand washing, running the dishwasher and laundry machine. Not many people would like to have my electric bill when it comes to the electric that it takes for the heating and cooling. X-cel Energy sends me regular reports that my house consumes up to 90% or more electric than my surrounding neighbors. In addition, there are insurances, FICA taxes, slow paying or even at times, the customers that do not even pay their child care bill. Many times, not all of the food bill is covered and the business basically donates in that area when the children are extra hungry or they come to the daycare not fed. Maintenance needs planned for such things as having to replace big ticket items like appliances, flooring and refurbishing things like the bathroom since it sees a lot of heavy use. This list goes on and on with many things too numerous to mention here but surely you get the point.

This money all has to come from somewhere. There is no guarantee that we will be full all the time or that we will even have the most optimum contracts in place to pay bills. We care for infants through 12 years of age at our group daycare home. Our kids are reading site words when they go to kindergarten and doing simple addition and subtraction. They are able to interact in an acceptable social way because they are socially and emotionally literate. Not everybody is well served in a bigger situation. Not every family's needs are met in a larger setting. This is where quality group daycares step in. This is whether we are talking about the social emotional needs of the children or even the general pick up/drop off times. We also provide much tutoring and guidance and kids come out well-adjusted by learning how to treat younger and older ones at the same time. They do this by working with their age group part of the day and also mixing with other age groups during part of the day while being supervised. It allows for siblings to see and spend time with each other. We have found that it promotes an even stronger bond of unity within the families. Which leads to more socially and emotionally stable children.

To run my group daycare home, it takes at least 3 people and at times, other people have to be called in to do jobs for the business periodically such as for deep cleaning and book keeping. I am here for the early contracts and I am here for the late contracts. I work some fairly long hours. My day, many times, starts at 5:30 am and even if the kids are able to leave by 5:30 pm and, at times 6:00 pm, I'm still catching things like the left-over dishes, laundry detail or paperwork. Many times, we are under pressure because we can't all the time get our paperwork done while we are actively watching children or even when the majority are sleeping at naptime. At times, there are children that have a hard time with nap time for whatever reason and we are actively tending to those needs. If this is not happening, many times that time is took up cleaning or getting things ready for them for the activities they are to have when they wake up. This happens M-F. This is why the long day gets split up between 2 assistants because no one would tolerate the long hours that I dedicate to the profession. Admittedly, these long hours. As a reprieve, I really try to have nothing left for the weekend so, my personal necessities can be tended to. Currently, since Jan. 1, 2020, I have been having to pay 450 more a month in wages. To cover that, I have had to donate "volunteer" hours in the amount of what would be worth 500 a month from my current salary base (which should be going monthly into my retirement account but now, there is nothing going there) because the money had to come from somewhere. Next Jan., it will be 1000. How long as directors/owners do you expect us to continue to have the same per hour as we bring our new inexperienced people on at because we "need to cover" their checks?? And at that rate, having the director to donate part of their hard-working hours as "volunteer?" This all done basically so other people can make their wage and maintenance/overhead can get paid? Isn't this actually called having NM cheat others out of not only their hours and their energy also? That is what is currently happening. Do you know what it feels like to be continually cheated out of your time and energy? Would you stand for it in your job? Can you in good conscience ask others to stand for it on theirs? What's happening now is called just standing by and watching rural NM bleed. If you are not standing by, are you then actively doing something about it? If so, exactly what? Because what's happening now doesn't make business sense. How am I supposed to really pay for the rising cost of maintenance and supplies? I don't have a clue how that'll work Jan 1, 2021 when things raise again.

Enclosed you will find a sample of one of our 4-year old's morning work that he chooses to do during free play. He is getting the hang of spacing and how upper-case letters are a definite size and lower-case letters are a definite size. We asked him what it said and he ran his finger from left to right across the letters and smiled while he said, "It says
not to sass your teachers!” We are so proud of him. We have had him since he was 8 mos. We move all our children through their milestones by giving each one individual attention and training that actually follows them from infancy all the way through our specific preschool program and beyond. Plus, it works well their individual personalities. Our other children are doing well also. This particular 4yr. old will be the envy of any Kindergarten teacher with the skills that he has acquired while attending our group daycare.

We provide excellent support to our early childhood education system. Our results with the children show this. We have done so for 15 years. If this is deficit is at all allowed to continue in such a crisis, the state will destroy our seasoned, accredited rural child care. NM cannot wait to take action in a few months down the road on this. It needs action and it needs it NOW!! When the quality childcare suffers, our NM children end up suffering right along with it. Do you want that on your conscience? What do you think this will do for the future of NM if our children don’t receive the very best individualized care that meets their particular needs and their families? What kind of leaders are we truly building for NM? The urgency of this crisis just can’t be minimized or swept under the rug for a period of time without devastating effects. IF you care at all, you are not in a position to sit and passively wait. You have to get up and ACT NOW! When we tried to raise private pay for childcare in our rural NM area 2 years ago...

In our rural area, the parents are either on the CYFD subsidized contracts or they are just above the cutoff line to qualify for those subsidized contracts. I realize that my experience is mirrored through many rural NM communities. For us, we knew that our CYFD state childcare contracts is what really helped our business to stay afloat in our area of rural NM. As we had not heard of any forthcoming increase in the state CYFD contracts to cover the cost of inflation that we had had for the past 2 years, we decided that surely, we could get some relief from the private sector since their rates were substantially lower than what our CYFD contracts brought in. As we did this, one of our long-standing moms got so upset with us that she demanded to know exactly what the raise was for. She indicated that she was paying really just what she could afford now. She actually cornered each one of the employees, at different times and point blank asked them if they were getting a raise. This so surprised the employees. They let her know that not to their knowledge were they getting a raise. She then let them know that they should be since things were going up around here. That started to break down the moral of my employees and I eventually lost one employee on account of that incident. That mom tried to recruit others to her cause but I was so thankful that the ones that she did end up talking to were moms that had state CYFD contracts and I eventually was able to visit more with her and told her that with anything that dealt with the business, that I would appreciate it if she would speak to me. She agreed but it wasn’t even 2 weeks and she had her son to a place that didn’t charge private pay like I was needing to in order to keep up with inflation. I am telling you this to let you know that it is not simply just a matter of charging the private pay more in what really is an impoverished area. They will not stand for it. They do not really have it to give. They will go elsewhere for childcare. Where they end up going is easily to places that are not regulated and the quality just isn’t there. Being an accredited group daycare home, we provide vital support to young children. You have heard my story about with the 20% wage increase of Jan. 1 and there has been no forthcoming increase in the state CYFD contracts. In my program, this resulted in me being forced to put in “voluntary hours” plus to take the 500 a month that I was needing to go to my retirement fund... That won’t be enough to live on. This in itself puts qualified, experienced early childcare supports like my accredited group home in jeopardy. Our rural NM needs to help immediately in this critical situation by increasing the state CYFD childcare subsidies for not only match the 20% increase in minimum wage but to adjust additionally for the rise in inflation of the last 4 years to the goods/services that our businesses have depended on that have not been accounted for. Please use this critical model as a stepping stone to adjust things as we go forward because we will go through the exact same thing as the wage increases to 10.50 Jan 1, 2021 and increases to 12.00 Jan1, 2022. Please don’t undercut us in this area. It is imperative that we get such help without any delay.

Response: We appreciate the comments provided and look forward to engaging with stakeholders about these issues in the future. At this point, we are not making changes based on these comments because they do not relate to the proposed changes to these regulations. The changes to NMAC Section 8.15.2 allow the department secretary the following authority during a public health emergency: may waive the requirements for employment, attending school or a training program; may waive co-payments for families receiving child care and pay the provider the clients approved rate; and may approve a differential rate be paid to licensed providers. The Early Childhood Education and Care Department (ECECD) utilized CARES Act funding to support the following:
• Provided a $250 differential for every child care assistance contract for centers that remained open during the months of March and April 2020
• Continued to pay child care providers for all child care contracts regardless of whether the facility is open or closed. Pay based on enrollment, not attendance March through June 2020
• Paid for child care for essential employees (health care professionals, first responders and others) March through June 2020
  • Provided child care stabilization and recovery grants to all licensed facilities
  • Provided no touch thermometers to licensed child care facilities and registered homes throughout state

Written Comment 3: Once again Early Childhood Education is struggling. We have proved during this one that we are absolutely essential. As a community we have stepped up to ensure our most vulnerable are cared for. And once again we are asked to do more with less. We've faced the first step of the minimum wage increase, we've had families forced to withdraw, we've continued to educate our staff, drop our ratios and yet despite all this, our reimbursement rates have seen very little, if any changes over the last several years. We hear about a “well compensated work force” yet we are not given the support to do so. We cannot retain our private pay clients if we're forced to increase rates solely on our private pay clients. Please consider reexamining the subsidy rates for the providers.

Response: We appreciate the comments and look forward to engaging with stakeholders about these items in the future. At this point, we are not making changes based on these comments because they are not related to the proposed regulations.

Written Comment 4: Please accept the following comments on the proposed revisions to 8.15.2 NMAC regarding the Children, Youth, and Families Department’s (the Department) child care assistance program. The undersigned organizations have extensive experience working with New Mexico families to ensure they have access to basic services that improve the lives of children, particularly those in low-income families. We have first-hand experience assisting families in accessing child care in New Mexico. We have seen the benefits to families who are able to access affordable child care and are aware of administrative barriers that prevent eligible families from receiving assistance. We thank the Department for taking steps to make access to child care easier during the public health crisis and for making the emergency rules permanent. We ask the Department to maintain the waiver of work and school requirements, as well as the waiver of co-payments until the public health and economic emergencies subside. If the Department does decide to end those waivers, we ask that the Department implements a gradual phase-in rather than immediately implementing these requirements. We also ask the Department to engage in an outreach and public information campaign to ensure that families are aware of these rule changes, and to ensure that families know how to access child care assistance. Maintaining Access to Child Care is Critical. Child Care Assistance is always a critical work support for families. That does not change during a pandemic. However, the current pandemic has shown that flexibility is needed to ensure that child care is accessible for families at a time when some, like those in healthcare, may be working increased hours, while others cannot continue their educations or go to work due to pandemic-related closures. Therefore, we thank the Department for waiving work and school requirements, as well as co-payments on an emergency basis. We also appreciate the Department’s current rulemaking which will promulgate these changes into the New Mexico Administrative Code consistent with the State Rules Act. This will make these flexibilities permanent and give the Secretary the authority to waive these requirements more easily during public health emergencies. Phase In Work and School Requirements, as well as Co-Payments to Avoid an Additional Cliff Effect. Families often face the choice between accepting pay increases at the expense of an abrupt end to child care assistance or a large increase in co-payments. Accepting a pay increase and losing a critical work support like child care assistance creates a “cliff effect,” because this situation can cause a family to be in a financially worse situation, even though they received an increase in pay. Among public benefits in New Mexico, the child care assistance cliff effect is severe due to the high cost of child care, and high co-payments for child care assistance. Therefore, we ask the Department to ease the burden on families by avoiding an abrupt end to the new waivers and flexibilities implemented as a response to the current pandemic. The Department can do this through a gradual phase-in of work and school requirements, as well as co-payments when the health and economic crises subside.
Additionally, the Department should exclude hazard pay from income calculations, so hazard pay does not affect eligibility. The Department should also effectively communicate with families that the waivers will be phased out to give families notice and time to plan for the increased financial burden they will have when the waivers expire. Make sure Families Know How to Access Child Care Assistance Lastly, we ask that the Department engage in an outreach and a public information campaign to make sure that families know about the rule changes and increased flexibilities in the Child Care Assistance Program. The Department can create materials and partner with community-based organizations, child care providers, and public school districts to disseminate information on the new rules that make child care more accessible in these extraordinary times. The Department should also post this information on its website and at child care field offices across the state.

Response: We appreciate the comments and look forward to engaging with stakeholders on these important issues in the future. At this point, we are not making changes based on these comments because they are not related to the proposed regulations. We agree and are committed to making information easily accessible. In the future, information will be provided on our website.

Written Comment 5 (Hearing): Are there going to be adjustments to the reimbursement rate we are receiving in State assistance contracts due to the mandate that centers keep ratios at a FOCUS 4 -Star requirement. Will contract reimbursement reflect this?

Response: The changes to NMAC Section 8.15.2 allow the department secretary the following authority during a public health emergency: may waive the requirements for employment, attending school or a training program; may waive co-payments for families receiving child care and pay the provider the clients approved rate; and may approve a differential rate be paid to licensed providers. This rule change does not decrease differential rates.

There were no oral comments at the hearing.
This is an amendment to 8.15.2 NMAC Sections 10, 13 and 17 effective August 11, 2020.

8.15.2.10 APPLICATION PROCESS:

A. Clients apply for child care assistance benefits by presenting the following documents to establish eligibility in person at the local child care office. Upon a need or request by the client, the department may approve a client to submit their initial application by fax, email, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Under documented extenuating circumstances and with approval from the early childhood services director, clients may be given longer than 14 days but no more than 30 days to submit required documentation:

1. a completed signed application form;
2. current proof of earned income or participation in the temporary assistance to needy families (TANF) program; social security numbers or assigned TANF identification numbers may be used to verify TANF participation or receipt of child care support;
3. school schedule or verification of educational activity, if applicable;
4. verification of birth for all applicant’s household children;
5. proof of unearned income;
6. proof of New Mexico home address; and
7. CYPD approved provider.

B. Assistance is provided effective the first day of the month of application if all of the following apply:

1. the client is utilizing child care services;
2. the client is employed, attending school or a training program. In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program; and
3. the eligible provider to be paid was providing care from the first day of the month forward.

[8.15.2.10 NMAC - Rp, 8.15.2.10 NMAC, 10/1/2016; A/E, 03/16/2020; A, 8/11/2020]

8.15.2.13 CLIENT RESPONSIBILITIES: Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only while they are working, attending school or participating in a training or educational program.

A. Co-payments: Co-payments are paid by all clients receiving child care assistance benefits, except for CPS child care, at-risk child care, and qualified grandparents or legal guardians as defined in Paragraph (2) of Subsection C of 8.15.2.11 NMAC. In the case of a public health emergency, the department secretary may waive co-payments for families receiving child care. The department will pay providers the client’s approved rate, to include required co-payments, during the time of the public health emergency. Co-payments are determined by income and household size. The co-payment schedule is published yearly at https://cyfd.org/child-care-services.

B. Co-payments described in Subsection A of 8.15.2.13 NMAC, are used for determining the base co-payment for the first eligible child. The formula for calculating the co-payment for the first full time child is (low end of the monthly income bracket on the co-payment schedule ÷ 200 percent of annual federal poverty level for household size) X (low end of the monthly income bracket on the co-payment schedule) X 1.1 = monthly copayment for first full time child. Base co-payments for each additional child are determined at one half of the copayment for the previous child.

1. The first child is identified as the child requiring the most hours of child care.
2. Each additional child will be ranked based on the most number of hours needed for child care to the least number of hours needed for child care.

C. Each child’s co-payment will be adjusted based on the units of services described in Subsection E of 8.15.2.17 NMAC, as follows:

1. full time care will be based on one hundred percent of the base co-payment;
2. part time 1 care will be based on seventy-five percent of the base co-payment;
3. part time 2 care will be based on fifty percent of the base co-payment; and
4. part time 3 care will be based on twenty-five percent of the base co-payment.

D. Clients pay co-payments directly to their child care provider and must remain current in their
payments. A client who does not pay co-payments may be subject to sanctions.

E. The co-payment for a child shall not exceed the monthly provider reimbursement rate. If this situation arises, the co-payment may be reduced in the amount by which it exceeds the monthly provider reimbursement rate.

F. In-home providers: Parents who choose to use an in-home provider become the employer of the child care provider and must comply with all federal and state requirements related to employers, such as the payment of all federal and state employment taxes and the provision of wage information. Any parent who chooses to employ an in-home provider releases and holds the department harmless from any and all actions resulting from their status as an employer. Payments for in-home provider care are made directly to the parent.

G. Notification of changes: Clients must notify the department of changes that affect the need for care, which include but are not limited to any non-temporary change in activity, or household members moving in or out, within five business days of the change. Clients who do not comply with this requirement may be sanctioned.

H. Required application with New Mexico human services department’s child support enforcement division (CSED):

1. When one or both of the child’s parents are absent from the home, the client shall apply for child support through CSED within 12 months of initial application with the child care assistance program.

2. The following exceptions include but are not limited to: the client is receiving TANF; the client is already receiving child support; the client is receiving financial support, including but not limited to housing, clothing, food, transportation and funds, from the non-resident parent; there is a joint custody agreement and neither parent is ordered to pay support; parental rights have been terminated; the parent is a foster parent to the child; the parent is an adoptive parent and provides proof of a single parent adoption; a-risk child care; a parent is temporarily out of the home and is still considered part of the household; the client is a teen parent; the client is a grandparent; guardian; parent is deceased or when good cause exists.

3. Good cause for refusal to apply may be granted when such application is not in the best interest of the child or parent, including but not limited to the following circumstances:

   a. There is possible physical or emotional harm to the child, parent or guardian;
   b. The child was conceived as a result of incest or rape;
   c. Legal proceedings for adoption of the child are pending before a court; or
   d. The client is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

4. The applicant or recipient who makes a claim for good cause shall supply written documentation to establish the claim. The caseworker shall not deny, delay, or discontinue subsidized child care benefits pending a determination of good cause if the applicant or recipient has complied with the requirements to furnish information.

5. If the client is not exempted from applying with CSED and has not applied within the required timeframe, the client’s case will be closed.

[8.15.2.13 NMAC - Rp, 8.15.2.13 NMAC, 10/1/2016; A, 10/1/2019; A/E, 03/16/2020; A, 8/11/2020]

8.15.2.17 PAYMENT FOR SERVICES: The department pays child care providers on a monthly basis, according to the standard practice for the child care industry. Payment is based upon the child’s enrollment with the provider as reflected in the child care placement agreement, rather than daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. The following describes circumstances when placements may be closed and payment discontinued at a time other than the end of the month:

A. When the child care placement agreement expires during the month, or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.

B. Upon a change of provider the client and former provider have three days after the fifth day of nonattendance to notify the department. If this requirement for notification was met, the provider will be paid through the 14th day following the first date of nonattendance. If notification requirement is not met, the provider will be paid through the last date of attendance. The agreement with the new provider shall become effective when payment to the previous provider ceases. If the client notifies the department of the change in providers fewer than 14 days before the change will take place or after the change has taken place, the client is responsible for payment to the new provider beginning on the start date at the new provider and continuing up until the final date of payment to the former provider, as described above. Payment to the former provider will be made through the last day that care is provided if the client is withdrawn from the provider because the health, safety or welfare of the child is at risk, as
determined by a substantiated complaint against the child care facility.

C. The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care. The registration/educational fee will discontinue when a placement closes as a result of a client changing providers, a provider discontinuing services, a child care placement agreement expiring, or a provider’s license being suspended or expiring.

D. The amount of the payment is based upon the age of the child and average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent at the time of certification and is reflected in the provider agreement. Providers are paid according to the units of service needed which are reflected in the child care agreement covering the certification period.

E. The department pays for care based upon the following units of service:

<table>
<thead>
<tr>
<th>Full time</th>
<th>Part time 1</th>
<th>Part time 2 (only for split custody or in cases where a child may have two providers)</th>
<th>Part time 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Care provided for an average of 30 or more hours per week per month</td>
<td>Care provided for an average of 8-29 hours per week per month</td>
<td>Care provided for an average of 8-19 hours per week per month</td>
<td>Care provided for an average of 7 or less hours per week per month</td>
</tr>
<tr>
<td>Pay at 100% of full time rate</td>
<td>Pay at 75% of full time rate</td>
<td>Pay at 50% of full time rate</td>
<td>Pay at 25% of full time rate</td>
</tr>
</tbody>
</table>

F. Hours of care shall be rounded to the nearest whole number.

G. Monthly reimbursement rates:

<table>
<thead>
<tr>
<th>Licensed child care centers</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$720.64</td>
<td>$589.55</td>
<td>$490.61</td>
<td>$436.27</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensed group homes (capacity: 7-12)</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$586.07</td>
<td>$487.11</td>
<td>$427.13</td>
<td>$422.74</td>
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<table>
<thead>
<tr>
<th>Licensed family homes (capacity: 6 or less)</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$566.98</td>
<td>$463.50</td>
<td>$411.62</td>
<td>$406.83</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Registered homes and in-home child care</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$289.89</td>
<td>$274.56</td>
<td>$251.68</td>
<td>$251.68</td>
</tr>
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</table>

H. The department pays a differential rate according to the license or registration status of the provider, national accreditation status of the provider if applicable, and star level status of the provider if applicable. In the case of a public health emergency, the department secretary may approve a differential rate be paid to licensed providers.

I. Providers holding and maintaining CYFD approved national accreditation status will receive the differential rate listed in Subsection I, below, per child per month for full time care above the base rate for type of care (licensed center, group home or family home) and age of child. All providers who maintain CYFD approved national accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider
reimbursement reverting to a lower level of reimbursement.

(1) Providers who receive national accreditation on or before December 31, 2014 from an accrediting body that is no longer approved by CYFD will no longer have national accreditation status, but will remain eligible to receive an additional $150 per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child until December 31, 2017.

(a) In order to continue at this reimbursement rate until December 31, 2017 a provider holding accreditation from accrediting bodies no longer approved by CYFD must maintain licensing standards and maintain accreditation without a lapse.

(b) If the provider fails to maintain their accreditation, the provider reimbursement will revert to the base reimbursement rate unless they have achieved a FOCUS star level or regain national accreditation status approved by CYFD.

(2) The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee’s national accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. All providers are required to notify the department immediately when a change in accreditation status occurs.

J. The department will pay a differential rate per child per month for full time care above the base reimbursement rate to providers achieving higher Star levels by meeting FOCUS essential elements of quality as follows:

<table>
<thead>
<tr>
<th>Star Level</th>
<th>Child Care Centers, Licensed Family and Group Homes</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>2+</td>
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<tr>
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<td></td>
<td>$100.00</td>
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<tr>
<td>4</td>
<td></td>
<td>$180.00</td>
<td>$180.00</td>
<td>$180.00</td>
<td>$180.00</td>
</tr>
<tr>
<td>5</td>
<td>or CYFD approved national accreditation</td>
<td>$250.00</td>
<td>$250.00</td>
<td>$250.00</td>
<td>$250.00</td>
</tr>
</tbody>
</table>

K. In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level criteria the provider reimbursement will revert to the FOCUS criteria level demonstrated.

L. Differential rates determined by achieving higher star levels determined by AIM HIGH essential elements of quality will be discontinued effective December 31, 2017. The department will pay a differential rate to providers achieving higher star levels determined by the AIM HIGH essential elements of quality until December 31, 2017 as follows: 3-Star at $88.00 per month per child for full time care above the base reimbursement rate; 4-Star at $122.50 per month per child for full time care above the base reimbursement rate, and 5-Star at $150.00 per
child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must maintain and meet most recent AIM HIGH star criteria and basic licensing requirements. If the provider fails to meet the requirements, this will result in the provider reimbursement reverting to the base reimbursement rate.

M. The department pays a differential rate equivalent to five percent, ten percent or fifteen percent of the applicable full-time/part-time rate to providers who provide care during non-traditional hours. Non-traditional care will be paid according to the following charts:

<table>
<thead>
<tr>
<th></th>
<th>1-10 hrs/wk</th>
<th>11-20 hrs/wk</th>
<th>21 or more hrs/wk</th>
</tr>
</thead>
<tbody>
<tr>
<td>After hours</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Weekend hours</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
</tbody>
</table>

N. If a significant change occurs in the client’s circumstances, (see Subsection G of 8.15.2.13 NMAC) the child care placement agreement may be modified and the rate of payment is adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.

O. The department may conduct provider or parent audits to assess that the approved service units are consistent with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.

P. Payments are made to the provider for the period covered in the placement agreement or based on the availability of funds.

[8.15.2.17 NMAC - Rp, 8.15.2.17 NMAC, 10/1/2016; A, 10/1/2019, A/E, 03/16/2020; A, 8/11/2020]
PROOF OF POSTING

8.15.2 NMAC

July 14, 2020 @ 1:00
NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding SOCIAL SERVICES CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS as authorized by Section 9-2A-7 NMSA 1978:

8.15.2.10 NMAC – APPLICATION PROCESS
8.15.2.13 NMAC – CLIENT RESPONSIBILITIES
8.15.2.17 NMAC – PAYMENT FOR SERVICES

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules: The purpose of the rulemaking is to promulgate amendments to 8.15.2 NMAC, which were initially published as emergency rules effective March 16, 2020. Due to the COVID-19 outbreak and the resulting executive orders and declarations, there was an emergency need for these amendments. The emergency amendments to 8.15.2 NMAC, as published, allow the department secretary the following authority during a public health emergency to: waive the requirements for employment, attending school or a training program; to waive co-payments for families receiving child care and pay the provider the clients approved rate; and to approve a differential rate be paid to licensed providers.

Copies of the proposed amended rules may be found at end of this notice and at CYFD’s website at https://www.newmexico.gov/ 30 days prior to the Public Hearing.

Notice of public rule hearing: The public rule hearing will be held on July 14, 2020, at 1:00 p.m. The hearing will be held via internet, email, and telephonic means due to the concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham’s Executive Order 2020-004, Declaration of Public Health Emergency and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at debra.gonzales@state.nm.us. CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Notice of acceptance of written public comment: Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may be submitted via email to CYFD-ECS-PublicComment@state.nm.us with the subject line “8.15.2 NMAC Public Comment” or via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 – 5160. Written comments may be delivered to the Old PERA building at 1120 Paseo De Peralta on July 14, 2020 from 1:00 pm to 3:00 pm. The comment period ends at the conclusion of the public hearing on July 14, 2020.

Any interested member of the public may attend the hearing via the internet or telephone and offer public comments on the proposed rule during the hearing. To access the hearing by telephone: place call 1-253-215-8782, access code 91353582922#. You will be able to hear the full hearing and your telephone comments will be recorded. To access the hearing via the internet: please go to https://zoom.us/j/91353582922, and follow the instructions indicated on the screen – Meeting ID (access code): 91353582922. This will be a live stream of the hearing. You may also provide comment via Chat during the live streaming.

AVISO DE PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PÚBLICA

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como es requerido bajo la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 NMAC, que propone adoptar enmiendas a las siguientes reglas con respecto a LOS REQUISITOS DE ASISTENCIA DE LOS SERVICIOS SOCIALES PARA EL CUIDADO
INFANTIL PARA PROGRAMAS DE ASISTENCIA DE CUIDADO INFANTIL Y PARA PROVEEDORES DE CUIDADO INFANTIL según autorizado por la sección 9-2A-7 NMSA 1978:

8.15.2.10 NMAC – PROCESO DE SOLICITUD
8.15.2.13 NMAC – RESPONSABILIDAD DEL CLIENTE
8.15.2.17 NMAC – PAGO POR SERVICIOS

No se consultó información científica o técnica cuando se redactaron estas propuestas de leyes administrativas.

Propósito de las propuestas de leyes administrativas: El propósito de las leyes administrativas es enmendar los requisitos bajo 8.15.2 NMAC las cuales fueron inicialmente publicadas como reglas de emergencia con fecha efectiva marzo 16 del 2020. A causa de la erupción de COVID-19 y el resultado de la orden ejecutiva y declaraciones, que existía una necesidad emergente para estas enmiendas. Las enmiendas de emergencia para 8.15.2 NMAC, como fue publicada, le permite al secretario del departamento la siguiente autoridad durante una emergencia de salud pública: que elimine los requisitos de empleo, asistir a la escuela o programa de capacitación. Eliminar co-pagos para las familias que reciben cuidado infantil y pagar al proveedor la cantidad aprobada a los clientes; y a aprobar una cantidad diferencial de pago a los proveedores con licencia.

Copias de las propuestas de leyes administrativas pueden ser localizadas al final de este aviso y en el sitio de la red de CYFD en https://www.newmexickids.org/ 30 días antes de la audiencia pública.

Aviso de audiencia pública de leyes administrativas: La audiencia pública de leyes administrativas será el 14 de julio del 2020 a la 1:00 p.m. Se llevara acabo por internet, correo electrónico y medios telefónicos a causa de preocupaciones acerca del COVID-19 y de acuerdo con la Orden Ejecutiva 2020-004 de la Gobernadora Michelle Lujan Grisham; Declaración de Emergencia de Salud Pública de marzo 12 del 2020 y la Orden de Emergencia de Salud Pública que Limita Reuniones Masivas a causa de COVID-19. La audiencia pública será conducida de una manera justa y con igualdad por un representante u oficial de la agencia de CYFD y será grabado. Cualquier miembro del público interesado en asistir a la audiencia tendrá una oportunidad razonable para ofrecer comentarios, ya sea oralmente o por escrito, incluso una presentación de datos, puntos de vista o argumentos, sobre las propuestas. Personas con discapacidades que necesiten cualquier forma de asistencia auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzalez, a: debra.gonzales@state.nm.us. CYFD hará todos los esfuerzos posibles para acomodar todas las solicitudes razonables, pero no puede garantizar acomodar solicitudes que no sean recibidas por lo menos diez días de calendario antes de la fecha programada para la audiencia.

Aviso de aceptación de comentario público por escrito: Comentarios públicos por escrito, incluso presentaciones de datos, puntos de vista o argumentos de cualquier miembro del público interesado, sobre las propuestas de leyes administrativas, pueden ser enviados a través de correo electrónico a: CYFD-ECS-PublicComment@state.nm.us, especificando en la línea de Asunto: “8.15.2 NMAC Public Comment,” o por correo de primera clase a P.O. Drawer 5160, Santa Fe, New México 87502-5160. Comentarios por escrito pueden ser entregados en el edificio antiguo PERA ubicado en 1120 Paseo De Peralta el día 14 de Julio del 2020 de la 1:00 pm a las 3:00 pm. El periodo de comentarios termina a la conclusión de la audiencia pública del 14 de julio del 2020.


Proposed Rules/Reglas Propuestas

8.15.2.10 APPLICATION PROCESS:
A. Clients apply for child care assistance benefits by presenting the following documents to establish
eligibility in person at the local child care office. Upon a need or request by the client, the department may approve
a client to submit their initial application by fax, email, or mail. Clients shall have 14 calendar days after initial
submission of an application to submit all other required forms. Under documented extenuating circumstances and
with approval from the early childhood services director, clients may be given longer than 14 days but no more than
30 days to submit required documentation:
(1) a completed signed application form;
(2) current proof of earned income or participation in the temporary assistance to needy
families (TANF) program; social security numbers or assigned TANF identification numbers may be used to verify
TANF participation or receipt of child care support;
(3) school schedule or verification of educational activity, if applicable;
(4) verification of birth for all applicant’s household children;
(5) proof of unearned income;
(6) proof of New Mexico home address; and
(7) CYFD approved provider.
B. Assistance is provided effective the first day of the month of application if all of the following
apply:
(1) the client is utilizing child care services;
(2) the client is employed, attending school or a training program. In the case of a public
health emergency, the department secretary may waive the requirement for employment, attending school or a
training program; and
(3) the eligible provider to be paid was providing care from the first day of the month
forward.
[8.15.2.10 NMAC - Rp, 8.15.2.10 NMAC, 10/1/2016; A/E, 03/16/2020]

8.15.2.13 CLIENT RESPONSIBILITIES: Clients must abide by the regulations set forth by the
department and utilize child care assistance benefits only while they are working, attending school or participating in
a training or educational program.
A. Co-payments: Co-payments are paid by all clients receiving child care assistance benefits, except
for CPS child care, at-risk child care, and qualified grandparents or legal guardians as defined in Paragraph (2) of
Subsection C of 8.15.2.11 NMAC. In the case of a public health emergency, the department secretary may waive
coopayments for families receiving child care. The department will pay providers the client’s approved rate, to
include required co-payments, during the time of the public health emergency. Co-payments are determined by
income and household size. The co-payment schedule is published yearly at https://cyfd.org/child-care-services.
B. Co-payments described in Subsection A of 8.15.2.13 NMAC, are used for determining the base
copayment for the first eligible child. The formula for calculating the co-payment for the first full time child is
(low end of the monthly income bracket on the co-payment schedule + 200 percent of annual federal poverty level
for household size) X (low end of the monthly income bracket on the co-payment schedule) X 1.1 = monthly
copayment for first full time child. Base co-payments for each additional child are determined at one half of the co-
payment for the previous child.
(1) The first child is identified as the child requiring the most hours of child care.
(2) Each additional child will be ranked based on the most number of hours needed for child
care to the least number of hours needed for child care.
C. Each child’s co-payment will be adjusted based on the units of services described in Subsection E
of 8.15.2.17 NMAC, as follows:
(1) full time care will be based on one hundred percent of the base co-payment;
(2) part time 1 care will be based on seventy-five percent of the base co-payment;
(3) part time 2 care will be based on fifty percent of the base co-payment; and
(4) part time 3 care will be based on twenty-five percent of the base co-payment.
D. Clients pay co-payments directly to their child care provider and must remain current in their
payments. A client who does not pay co-payments may be subject to sanctions.
E. The co-payment for a child shall not exceed the monthly provider reimbursement rate. If this
situation arises, the co-payment may be reduced in the amount by which it exceeds the monthly provider
reimbursement rate.
F. In-home providers: Parents who choose to use an in-home provider become the employer of the child care provider and must comply with all federal and state requirements related to employers, such as the payment of all federal and state employment taxes and the provision of wage information. Any parent who chooses to employ an in-home provider releases and holds the department harmless from any and all actions resulting from their status as an employer. Payments for in-home provider care are made directly to the parent.

G. Notification of changes: Clients must notify the department of changes that affect the need for care, which include but are not limited to any non-temporary change in activity, or household members moving in or out, within five business days of the change. Clients who do not comply with this requirement may be sanctioned.

H. Required application with New Mexico human services department’s child support enforcement division (CSED):

   (1) When one or both of the child’s parents are absent from the home, the client shall apply for child support through CSED within 12 months of initial application with the child care assistance program.

   (2) The following exceptions include but are not limited to: the client is receiving TANF; the client is already receiving child support; the client is receiving financial support, including but not limited to housing, clothing, food, transportation and funds, from the non-resident parent; there is a joint custody agreement and neither parent is ordered to pay support; parental rights have been terminated; the parent is a foster parent to the child; the parent is an adoptive parent and provides proof of a single parent adoption; at-risk child care; a parent is temporarily out of the home and is still considered part of the household; the client is a teen parent; the client is a grandparent; guardian; parent is deceased or when good cause exists.

   (3) Good cause for refusal to apply may be granted when such application is not in the best interest of the child or parent, including but not limited to the following circumstances:

      (a) there is possible physical or emotional harm to the child, parent or guardian;

      (b) the child was conceived as a result of incest or rape;

      (c) legal proceedings for adoption of the child are pending before a court; or

      (d) the client is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish the child for adoption.

   (4) The applicant or recipient who makes a claim for good cause shall supply written documentation to establish the claim. The caseworker shall not deny, delay, or discontinue subsidized child care benefits pending a determination of good cause if the applicant or recipient has complied with the requirements to furnish information.

   (5) If the client is not exempted from applying with CSED and has not applied within the required timeframe, the client’s case will be closed.

[8.15.2.13 NMAC - Rp, 8.15.2.13 NMAC, 10/1/2016; A, 10/1/2019; A/E, 03/16/2020]

8.15.2.17 PAYMENT FOR SERVICES: The department pays child care providers on a monthly basis, according to standard practice for the child care industry. Payment is based upon the child’s enrollment with the provider as reflected in the child care placement agreement, rather than daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. The following describes circumstances when placements may be closed and payment discontinued at a time other than the end of the month:

A. When the child care placement agreement expires during the month, or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.

B. Upon a change of provider, the client and former provider have three days after the fifth day of nonattendance to notify the department. If this requirement for notification was met, the provider will be paid through the 14th day following the first date of nonattendance. If notification requirement is not met, the provider will be paid through the last date of attendance. The agreement with the new provider shall become effective when payment to the previous provider ceases. If the client notifies the department of the change in providers fewer than 14 days before the change will take place or after the change has taken place, the client is responsible for payment to the new provider beginning on the start date at the new provider and continuing up until the final date of payment to the former provider, as described above. Payment to the former provider will be made through the last day that care is provided if the child is withdrawn from the provider because the health, safety or welfare of the child is at risk, as determined by a substantiated complaint against the child care facility.

C. The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care. The
registration/educational fee will discontinue when a placement closes as a result of a client changing providers, a provider discontinuing services, a child care placement agreement expiring, or a provider's license being suspended or expiring.

D. The amount of the payment is based upon the age of the child and average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent at the time of certification and is reflected in the provider agreement. Providers are paid according to the units of service needed which are reflected in the child care agreement covering the certification period.

E. The department pays for care based upon the following units of service:

<table>
<thead>
<tr>
<th></th>
<th>Full time</th>
<th>Part time 1</th>
<th>Part time 2 (only for split custody or in cases where a child may have two providers)</th>
<th>Part time 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Care provided for an average of 30 or more hours per week per month</td>
<td>Care provided for an average of 8-29 hours per week per month</td>
<td>Care provided for an average of 8-19 hours per week per month</td>
<td>Care provided for an average of 7 or less hours per week per month</td>
<td></td>
</tr>
<tr>
<td>Pay at 100% of full time rate</td>
<td>Pay at 75% of full time rate</td>
<td>Pay at 50% of full time rate</td>
<td>Pay at 25% of full time rate</td>
<td></td>
</tr>
</tbody>
</table>

F. Hours of care shall be rounded to the nearest whole number.

G. Monthly reimbursement rates:

<table>
<thead>
<tr>
<th>Licensed child care centers</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>$720.64</td>
<td>$589.55</td>
<td>$490.61</td>
<td>$436.27</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensed group homes (capacity: 7-12)</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>$586.07</td>
<td>$487.11</td>
<td>$427.13</td>
<td>$422.74</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensed family homes (capacity: 6 or less)</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>$566.98</td>
<td>$463.50</td>
<td>$411.62</td>
<td>$406.83</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Registered homes and in-home child care</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td>$289.89</td>
<td>$274.56</td>
<td>$251.68</td>
<td>$251.68</td>
<td></td>
</tr>
</tbody>
</table>

H. The department pays a differential rate according to the license or registration status of the provider, national accreditation status of the provider if applicable, and star level status of the provider if applicable. In the case of a public health emergency, the department secretary may approve a differential rate to be paid to licensed providers.

I. Providers holding and maintaining CYFD approved national accreditation status will receive the differential rate listed in Subsection I. below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain CYFD approved national accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement.

(1) Providers who receive national accreditation on or before December 31, 2014 from an accrediting body that is no longer approved by CYFD will no longer have national accreditation status, but will remain eligible to receive an additional $150 per child per month for full time care above the base rate for type of
child care (licensed center, group home or family home) and age of child until December 31, 2017.

(a) In order to continue at this reimbursement rate until December 31, 2017 a provider holding accreditation from accrediting bodies no longer approved by CYFD must maintain licensing standards and maintain accreditation without a lapse.

(b) If the provider fails to maintain their accreditation, the provider reimbursement will revert to the base reimbursement rate unless they have achieved a FOCUS star level or regain national accreditation status approved by CYFD.

(2) The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee's national accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. All providers are required to notify the department immediately when a change in accreditation status occurs.

J. The department will pay a differential rate per child per month for full time care above the base reimbursement rate to providers achieving higher Star levels by meeting FOCUS essential elements of quality as follows:

<table>
<thead>
<tr>
<th>2+ Star FOCUS Child Care Centers, Licensed Family and Group Homes</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$88.00</td>
<td>$88.00</td>
<td>$88.00</td>
<td>$88.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3 Star FOCUS Child Care Centers, Licensed Family and Group Homes</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$100.00</td>
<td>$100.00</td>
<td>$100.00</td>
<td>$100.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4 Star FOCUS Licensed Family and Group Homes</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$180.00</td>
<td>$180.00</td>
<td>$180.00</td>
<td>$180.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5 Star FOCUS or CYFD approved national accreditation Licensed Family and Group Homes</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$250.00</td>
<td>$250.00</td>
<td>$250.00</td>
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</tr>
</tbody>
</table>

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<thead>
<tr>
<th>4 Star FOCUS Child Care Centers</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$280.00</td>
<td>$280.00</td>
<td>$250.00</td>
<td>$180.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>5 Star FOCUS or CYFD approved national accreditation Child Care Centers</th>
<th>Infant</th>
<th>Toddler</th>
<th>Pre-school</th>
<th>School-age</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$550.00</td>
<td>$550.00</td>
<td>$350.00</td>
<td>$250.00</td>
</tr>
</tbody>
</table>

K. In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level criteria the provider reimbursement will revert to the FOCUS criteria level demonstrated.

L. Differential rates determined by achieving higher star levels determined by AIM HIGH essential elements of quality will be discontinued effective December 31, 2017. The department will pay a differential rate to providers achieving higher star levels determined by the AIM HIGH essential elements of quality until December 31, 2017 as follows: 3-Star at $88.00 per month per child for full time care above the base reimbursement rate; 4-Star at $122.50 per month per child for full time care above the base reimbursement rate, and 5-Star at $150.00 per child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must maintain and meet most recent AIM HIGH star criteria and basic licensing requirements. If the provider fails to meet the requirements, this will result in the provider reimbursement reverting to the base reimbursement rate.
M. The department pays a differential rate equivalent to five percent, ten percent or fifteen percent of the applicable full-time/part-time rate to providers who provide care during non-traditional hours. Non-traditional care will be paid according to the following chart:

<table>
<thead>
<tr>
<th></th>
<th>1-10 hrs/wk</th>
<th>11-20 hrs/wk</th>
<th>21 or more hrs/wk</th>
</tr>
</thead>
<tbody>
<tr>
<td>After hours</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Weekend hours</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
</tbody>
</table>

N. If a significant change occurs in the client's circumstances, (see Subsection G of 8.15.2.13 NMAC) the child care placement agreement may be modified and the rate of payment is adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.

O. The department may conduct provider or parent audits to assess that the approved service units are consistent with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.

P. Payments are made to the provider for the period covered in the placement agreement or based on the availability of funds.

[8.15.2.17 NMAC - Rp, 8.15.2.17 NMAC, 10/1/2016; A, 10/1/2019, A/E, 03/16/2020]
New Mexico Register Publication of Proposed Rule
NOTICE OFeruleMAKING AND PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding SOCIAL SERVICES CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS as authorized by Section 9-2A-7 NMSA 1978:

8.15.2.10 NMAC – APPLICATION PROCESS
8.15.2.13 NMAC – CLIENT RESPONSIBILITIES
8.15.2.17 NMAC – PAYMENT FOR SERVICES

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules: The purpose of the rulemaking is to promulgate amendments to 8.15.2 NMAC, which were initially published as emergency rules effective March 16, 2020. Due to the COVID-19 outbreak and the resulting executive orders and declarations, there was an emergency need for these amendments. The emergency amendments to 8.15.2 NMAC, as published, allow the department secretary the following authority during a public health emergency: to waive the requirements for employment, attending school or a training program; to waive co-payments for families receiving child care and pay the provider the clients approved rate; and to approve a differential rate be paid to licensed providers.

Copies of the proposed amended rules may be found at end of this notice and at CYFD’s website at https://www.newmexicokids.org/ 30 days prior to the Public Hearing.

Notice of public rule hearing: The public rule hearing will be held on July 14, 2020, at 1:00 p.m. The hearing will be held via internet, email, and telephonic means due to the concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham’s Executive Order 2020-004, Declaration of Public Health Emergency and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at debra.gonzales@state.nm.us. CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Notice of acceptance of written public comment: Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may be submitted via email to CYFD-ECS-PublicComment@state.nm.us with the subject line “8.15.2 NMAC Public Comment” or via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 – 5160. Written comments may be delivered to the Old PERA building at 1120 Paseo De Peralta on July 14, 2020 from 1:00 pm to 3:00 pm. The comment period ends at the conclusion of the public hearing on July 14, 2020.

Any interested member of the public may attend the hearing via the internet or telephone and offer public comments on the proposed rule during the hearing. To access the hearing by telephone: place call 1-253-215-8782, access code 91353582922#. You will be able to hear the full hearing and your telephone comments will be recorded. To access the hearing via the internet: please go to https://zoom.us/j/91353582922, and follow the instructions indicated on the screen – Meeting ID (access code): 91353582922. This will be a live stream of the hearing. You may also provide comment via Chat during the live streaming.

AVISO DE PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PÚBLICA

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como es requerido bajo la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 NMAC, que propone adoptar enmiendas a las siguientes reglas con respecto a LOS REQUISITOS DE ASISTENCIA DE LOS SERVICIOS SOCIALES PARA EL CUIDADO INFANTIL PARA
PROGRAMAS DE ASISTENCIA DE CUIDADO INFANTIL Y PARA PROVEEDORES DE CUIDADO INFANTIL
según autorizado por la sección 9-2A-7 NMSA 1978:

8.15.2.10 NMAC – PROCESO DE SOLICITUD
8.15.2.13 NMAC – RESPONSABILIDAD DEL CLIENTE
8.15.2.17 NMAC – PAGO POR SERVICIOS

No se consultó información científica o técnica cuando se redactaron estas propuestas de leyes administrativas.

Propósito de las propuestas de leyes administrativas: El propósito de las leyes administrativas es enmendar los requisitos bajo 8.15.2 NMAC las cuales fueron inicialmente publicadas como reglas de emergencia con fecha efectiva marzo 16 del 2020. A causa de la erupción de COVID-19 y el resultado de la orden ejecutiva y declaraciones, que existía una necesidad emergente para estas enmiendas. Las enmiendas de emergencia para 8.15.2 NMAC, como fue publicada, le permite al secretario del departamento la siguiente autoridad durante una emergencia de salud pública: que elimine los requisitos de empleo, asistir a la escuela o programa de capacitación. Eliminar co-pagos para las familias que reciben cuidado infantil y pagar al proveedor la cantidad aprobada a los clientes; y a aprobar una cantidad diferencial de pago a los proveedores con licencia.

Copias de las propuestas de leyes administrativas pueden ser localizadas al final de este aviso y en el sitio de la red de CYFD en https://www.newmexicokids.org/ 30 días antes de la audiencia pública.

Aviso de audiencia pública de leyes administrativas: La audiencia pública de leyes administrativas será el 14 de julio del 2020 a la 1:00 p.m. Se llevara acabo por internet, correo electrónico y medios telefónicos a causa de preocupaciones acerca del COVID-19 y de acuerdo con la Orden Ejecutiva 2020-004 de la Gobernadora Michelle Lujan Grisham; Declaración de Emergencia de Salud Pública de marzo 12 del 2020 y la Orden de Emergencia de Salud Pública que Limita Reuniones Masivas a causa de COVID-19. La audiencia pública será conducida de una manera justa y con igualdad por un representante u oficial de la agencia de CYFD y será grabado. Cualquier miembro del público interesado en asistir a la audiencia tendrá una oportunidad razonable para ofrecer comentarios, ya sea oralmente o por escrito, incluso una presentación de datos, puntos de vista o argumentos, sobre las propuestas. Personas con discapacidades que necesiten cualquier forma de asistencia auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gonzales, a: debra.gonzales@state.nm.us, CYFD hará todos los esfuerzos posibles para acomodar todas las solicitudes razonables, pero no puede garantizar acomodar solicitudes que no sean recibidas por lo menos diez días de calendario antes de la fecha programada para la audiencia.

Aviso de aceptación de comentario público por escrito: Comentarios públicos por escritos, incluso presentaciones de datos, puntos de vista o argumentos de cualquier miembro del público interesado, sobre las propuestas de leyes administrativas, pueden ser enviados a través de correo electrónico a: CYFD-ECS-PublicComment@state.nm.us, especificando en la línea de Asunto: “8.15.2 NMAC Public Comment,” o por correo de primera clase a P.O. Drawer 5160, Santa Fe, New México 87502-5160. Comentarios por escrito pueden ser entregados en el edificio antiguo PERA ubicado en 1120 Paseo De Peralta el día 14 de Julio del 2020 de la 1:00 pm a las 3:00 pm. El periodo de comentarios termina a la conclusión de la audiencia pública del 14 de julio del 2020.

Cualquier miembro del público interesado puede atender a la audiencia por medio de internet o teléfono y ofrecer comentario público sobre la propuesta de leyes administrativas durante la audiencia. Para acceder la audiencia por medio de teléfono: llame al 1-253-215-8782 con código de acceso 91353582922#. Usted tendrá la habilidad de escuchar toda la audiencia y sus comentarios serán grabados. Para acceder la audiencia por medio de internet: por favor diríjase a https://zoom.us/j/91353582922, y siga las instrucciones indicadas en la pantalla, Meeting ID- código de acceso: 91353582922. Esto sera una forma de audiencia en vivo. Puede proveer sus comentarios por medio de la función de Chat durante la audiencia en vivo.

Proposed Rules/Reglas Propuestas

8.15.2.10 APPLICATION PROCESS:

A. Clients apply for child care assistance benefits by presenting the following documents to establish eligibility in person at the local child care office. Upon a need or request by the client, the department may approve a client to submit their initial application by fax, email, or mail. Clients shall have 14 calendar days after initial submission of an application to submit all other required forms. Under documented extenuating circumstances and with approval from the early childhood services director, clients may be given longer than 14 days but no more than 30 days to submit required documentation:
a completed signed application form;
(2) current proof of earned income or participation in the temporary assistance to needy families (TANF) program; social security numbers or assigned TANF identification numbers may be used to verify TANF participation or receipt of child care support;
(3) school schedule or verification of educational activity, if applicable;
(4) verification of birth for all applicant's household children;
(5) proof of unearned income;
(6) proof of New Mexico home address; and
(7) CYFD approved provider.

B. Assistance is provided effective the first day of the month of application if all of the following apply:
(1) the client is utilizing child care services;
(2) the client is employed, attending school or a training program. In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program; and
(3) the eligible provider to be paid was providing care from the first day of the month forward.

8.15.2.10 NMAC - Rp, 8.15.2.10 NMAC, 10/1/2016; A/F, 03/16/2020

8.15.2.13 CLIENT RESPONSIBILITIES: Clients must abide by the regulations set forth by the department and utilize child care assistance benefits only while they are working, attending school or participating in a training or educational program.

A. Co-payments: Co-payments are paid by all clients receiving child care assistance benefits, except for CPS child care, at-risk child care, and qualified grandparents or legal guardians as defined in Paragraph (2) of Subsection C of 8.15.2.11 NMAC. In the case of a public health emergency, the department secretary may waive co-payments for families receiving child care. The department will pay providers the client's approved rate, to include required co-payments, during the time of the public health emergency. Co-payments are determined by income and household size. The co-payment schedule is published yearly at https://cyfd.org/child-care-services. B. Co-payments described in Subsection A of 8.15.2.13 NMAC, are used for determining the base co-payment for the first eligible child. The formula for calculating the co-payment for the first full time child is (low end of the monthly income bracket on the co-payment schedule + 200 percent of annual federal poverty level for household size) X (low end of the monthly income bracket on the co-payment schedule) X 1.1 = monthly co-payment for first full time child. Base co-payments for each additional child are determined at one half of the co-payment for the previous child.

(1) The first child is identified as the child requiring the most hours of child care.
(2) Each additional child will be ranked based on the number of hours needed for child care to the least number of hours needed for child care.

C. Each child's co-payment will be adjusted based on the units of services described in Subsection E of 8.15.2.17 NMAC, as follows:
(1) full time care will be based on one hundred percent of the base co-payment;
(2) part time 1 care will be based on seventy-five percent of the base co-payment;
(3) part time 2 care will be based on fifty percent of the base co-payment; and
(4) part time 3 care will be based on twenty-five percent of the base co-payment.

D. Clients pay co-payments directly to their child care provider and must remain current in their payments. A client who does not pay co-payments may be subject to sanctions.

E. The co-payment for a child shall not exceed the monthly provider reimbursement rate. If this situation arises, the co-payment may be reduced in the amount by which it exceeds the monthly provider reimbursement rate.

F. In-home providers: Parents who choose to use an in-home provider become the employer of the child care provider and must comply with all federal and state requirements related to employers, such as the payment of all federal and state employment taxes and the provision of wage information. Any parent who chooses to employ an in-home provider releases and holds the department harmless from any and all actions resulting from their status as an employer. Payments for in-home provider care are made directly to the parent.

G. Notification of changes: Clients must notify the department of changes that affect the need for care, which include but are not limited to any non-temporary change in activity, or household members moving in or out, within five business days of the change. Clients who do not comply with this requirement may be sanctioned.

H. Required application with New Mexico human services department's child support enforcement division (CSED):
(1) When one or both of the child's parents are absent from the home, the client shall apply for child support though CSED within 12 months of initial application with the child care assistance program.
(2) The following exceptions include but are not limited to: the client is receiving TANF; the client is already receiving child support; the client is receiving financial support, including but not limited to housing,
clothing, food, transportation and funds, from the non-resident parent; there is a joint custody agreement and neither parent is ordered to pay support; parental rights have been terminated; the parent is a foster parent to the child; the parent is an adoptive parent and provides proof of a single parent adoption; at-risk child care; a parent is temporarily out of the home and is still considered part of the household; the client is a teen parent; the client is a grandparent; guardian; parent is deceased or when good cause exists.

(3) Good cause for refusal to apply may be granted when such application is not in the best interest of the child or parent, including but not limited to the following circumstances:
   (a) there is possible physical or emotional harm to the child, parent or guardian;
   (b) the child was conceived as a result of incest or rape;
   (c) legal proceedings for adoption of the child are pending before a court; or
   (d) the client is currently being assisted by a public or licensed private social agency

   to resolve the issue of whether to keep the child or relinquish the child for adoption.

(4) The applicant or recipient who makes a claim for good cause shall supply written documentation to establish the claim. The caseworker shall not deny, delay, or discontinue subsidized child care benefits pending a determination of good cause if the applicant or recipient has complied with the requirements to furnish information.

(5) If the client is not exempted from applying with CSED and has not applied within the required timeframe, the client’s case will be closed.

[8.15.2.13 NMAC - Rp, 8.15.2.13 NMAC, 10/1/2016; A, 10/1/2019; A/E, 03/16/2020]

8.15.2.17 PAYMENT FOR SERVICES: The department pays child care providers on a monthly basis, according to standard practice for the child care industry. Payment is based upon the child’s enrollment with the provider as reflected in the child care placement agreement, rather than daily attendance. As a result, most placements reflect a month of service provision and are paid on this basis. However, placements may be closed at any time during the month. The following describes circumstances when placements may be closed and payment discontinued at a time other than the end of the month:

A. When the child care placement agreement expires during the month, or when the provider requests that the client change providers or the provider discontinues services; payment will be made through the last day that care is provided.

B. Upon a change of provider the client and former provider have three days after the fifth day of nonattendance to notify the department. If this requirement for notification was met, the provider will be paid through the 14th day following the first date of nonattendance. If notification requirement is not met, the provider will be paid through the last date of attendance. The agreement with the new provider shall become effective when payment to the previous provider ceases. If the client notifies the department of the change in providers fewer than 14 days before the change will take place or after the change has taken place, the client is responsible for payment to the new provider beginning on the start date at the new provider and continuing up until the final date of payment to the former provider, as described above. Payment to the former provider will be made through the last day that care is provided if the child is withdrawn from the provider because the health, safety or welfare of the child is at risk, as determined by a substantiated complaint against the child care facility.

C. The department shall pay a five dollar monthly, not to exceed sixty dollars per year, registration/educational fee per child in full time care, on behalf of department clients under 8.15.2 NMAC. Adjustments to the five dollar registration/educational fee will be made based on units of care. The registration/educational fee will discontinue when a placement closes as a result of a client changing providers, a provider discontinuing services, a child care placement agreement expiring, or a provider’s license being suspended or expiring.

D. The amount of the payment is based upon the age of the child and average number of hours per week needed per child during the certification period. The number of hours of care needed is determined with the parent at the time of certification and is reflected in the provider agreement. Providers are paid according to the units of service needed which are reflected in the child care agreement covering the certification period.

E. The department pays for care based upon the following units of service:

<table>
<thead>
<tr>
<th></th>
<th>Full time</th>
<th>Part time 1</th>
<th>Part time 2 (only for split custody or in cases where a child may have two providers)</th>
<th>Part time 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>Care provided for an average of 30 or more hours per week per month</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Care provided for an average of 8-29 hours per week per month</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Care provided for an average of 8-19 hours per week per month</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Care provided for an average of 7 or less hours per week per month</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
F. Hours of care shall be rounded to the nearest whole number.

G. Monthly reimbursement rates:

<table>
<thead>
<tr>
<th>Licensed child care centers</th>
<th>Pay at 100% of full time rate</th>
<th>Pay at 75% of full time rate</th>
<th>Pay at 50% of full time rate</th>
<th>Pay at 25% of full time rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
<td>Toddler</td>
<td>Pre-school</td>
<td>School-age</td>
<td>$436.27</td>
</tr>
<tr>
<td>$720.64</td>
<td>$589.55</td>
<td>$490.61</td>
<td>$436.27</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensed group homes (capacity: 7-12)</th>
<th>Pay at 100% of full time rate</th>
<th>Pay at 75% of full time rate</th>
<th>Pay at 50% of full time rate</th>
<th>Pay at 25% of full time rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
<td>Toddler</td>
<td>Pre-school</td>
<td>School-age</td>
<td>$422.74</td>
</tr>
<tr>
<td>$586.07</td>
<td>$487.11</td>
<td>$427.13</td>
<td>$422.74</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Licensed family homes (capacity: 6 or less)</th>
<th>Pay at 100% of full time rate</th>
<th>Pay at 75% of full time rate</th>
<th>Pay at 50% of full time rate</th>
<th>Pay at 25% of full time rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
<td>Toddler</td>
<td>Pre-school</td>
<td>School-age</td>
<td>$406.83</td>
</tr>
<tr>
<td>$566.98</td>
<td>$463.50</td>
<td>$411.62</td>
<td>$406.83</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Registered homes and in-home child care</th>
<th>Pay at 100% of full time rate</th>
<th>Pay at 75% of full time rate</th>
<th>Pay at 50% of full time rate</th>
<th>Pay at 25% of full time rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
<td>Toddler</td>
<td>Pre-school</td>
<td>School-age</td>
<td>$251.68</td>
</tr>
<tr>
<td>$289.89</td>
<td>$274.56</td>
<td>$251.68</td>
<td>$251.68</td>
<td></td>
</tr>
</tbody>
</table>

H. The department pays a differential rate according to the license or registration status of the provider, national accreditation status of the provider if applicable, and star level status of the provider if applicable. In the case of a public health emergency, the department secretary may approve a differential rate to be paid to licensed providers.

I. Providers holding and maintaining CYFD approved national accreditation status will receive the differential rate listed in Subsection I. below, per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child. All providers who maintain CYFD approved national accreditation status will be paid at the accredited rates for the appropriate age group and type of care. In order to continue at this accredited reimbursement rate, a provider holding national accreditation status must meet and maintain licensing standards and maintain national accreditation status without a lapse. If a provider holding national accreditation status fails to maintain these requirements, this will result in the provider reimbursement reverting to a lower level of reimbursement.

(1) Providers who receive national accreditation on or before December 31, 2014 from an accrediting body that is no longer approved by CYFD will no longer have national accreditation status, but will remain eligible to receive an additional $150 per child per month for full time care above the base rate for type of child care (licensed center, group home or family home) and age of child until December 31, 2017.

(a) In order to continue at this reimbursement rate until December 31, 2017 a provider holding accreditation from accrediting bodies no longer approved by CYFD must maintain licensing standards and maintain accreditation without a lapse.

(b) If the provider fails to maintain their accreditation, the provider reimbursement will revert to the base reimbursement rate unless they have achieved a FOCUS star level or regain national accreditation status approved by CYFD.

(2) The licensee shall notify the licensing authority within 48 hours of any adverse action by the national accreditation body against the licensee’s national accreditation status, including but not limited to expiration, suspension, termination, revocation, denial, nonrenewal, lapse or other action that could affect its national accreditation status. All providers are required to notify the department immediately when a change in accreditation status occurs.

J. The department will pay a differential rate per child per month for full time care above the base reimbursement rate to providers achieving higher Star levels by meeting FOCUS essential elements of quality as follows:

<table>
<thead>
<tr>
<th>2+ Star FOCUS Child Care Centers, Licensed Family and Group Homes</th>
<th>Pay at 100% of full time rate</th>
<th>Pay at 75% of full time rate</th>
<th>Pay at 50% of full time rate</th>
<th>Pay at 25% of full time rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
<td>Toddler</td>
<td>Pre-school</td>
<td>School-age</td>
<td>$88.00</td>
</tr>
<tr>
<td>$88.00</td>
<td>$88.00</td>
<td>$88.00</td>
<td>$88.00</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3 Star FOCUS Child Care Centers, Licensed Family and Group Homes</th>
<th>Pay at 100% of full time rate</th>
<th>Pay at 75% of full time rate</th>
<th>Pay at 50% of full time rate</th>
<th>Pay at 25% of full time rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infant</td>
<td>Toddler</td>
<td>Pre-school</td>
<td>School-age</td>
<td>$100.00</td>
</tr>
<tr>
<td>$100.00</td>
<td>$100.00</td>
<td>$100.00</td>
<td>$100.00</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4 Star FOCUS Licensed Family and Group Homes</th>
<th>Pay at 100% of full time rate</th>
<th>Pay at 75% of full time rate</th>
<th>Pay at 50% of full time rate</th>
<th>Pay at 25% of full time rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Infant</td>
<td>Toddler</td>
<td>Pre-school</td>
<td>School-age</td>
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<td>-------------</td>
</tr>
<tr>
<td>5 Star FOCUS or CYFD approved national accreditation Licensed Family and Group Homes</td>
<td>$180.00</td>
<td>$180.00</td>
<td>$180.00</td>
<td>$180.00</td>
</tr>
<tr>
<td>4 Star FOCUS Child Care Centers</td>
<td>$250.00</td>
<td>$250.00</td>
<td>$250.00</td>
<td>$250.00</td>
</tr>
<tr>
<td>5 Star FOCUS or CYFD approved national accreditation Child Care Centers</td>
<td>$280.00</td>
<td>$280.00</td>
<td>$250.00</td>
<td>$180.00</td>
</tr>
</tbody>
</table>

**K.** In order to continue at the FOCUS reimbursement rates, a provider must meet and maintain the most recent FOCUS eligibility requirements and star level criteria. If the provider fails to meet the FOCUS eligibility requirements and star level criteria the provider reimbursement will revert to the FOCUS criteria level demonstrated.

**L.** Differential rates determined by achieving higher star levels determined by AIM HIGH essential elements of quality will be discontinued effective December 31, 2017. The department will pay a differential rate to providers achieving higher star levels determined by the AIM HIGH essential elements of quality until December 31, 2017 as follows: 3-Star at $88.00 per month per child for full time care above the base reimbursement rate; 4-Star at $122.50 per month per child for full time care above the base reimbursement rate, and 5-Star at $150.00 per child per month for full time care above the base reimbursement rate. In order to continue at these reimbursement rates, a provider must maintain and meet most recent AIM HIGH star criteria and basic licensing requirements. If the provider fails to meet the requirements, this will result in the provider reimbursement reverting to the base reimbursement rate.

**M.** The department pays a differential rate equivalent to five percent, ten percent or fifteen percent of the applicable full-time/part-time rate to providers who provide care during non-traditional hours. Non-traditional care will be paid according to the following charts:

<table>
<thead>
<tr>
<th></th>
<th>1-10 hrs/wk</th>
<th>11-20 hrs/wk</th>
<th>21 or more hrs/wk</th>
</tr>
</thead>
<tbody>
<tr>
<td>After hours</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>1-10 hrs/wk</th>
<th>11-20 hrs/wk</th>
<th>21 or more hrs/wk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Weekend hours</td>
<td>5%</td>
<td>10%</td>
<td>15%</td>
</tr>
</tbody>
</table>

**N.** If a significant change occurs in the client’s circumstances, (see Subsection G of 8.15.2.13 NMAC) the child care placement agreement may be modified and the rate of payment is adjusted. The department monitors attendance and reviews the placement at the end of the certification period when the child is re-certified.

**O.** The department may conduct provider or parent audits to assess that the approved service units are consistent with usage. Providers found to be defrauding the department are sanctioned. Providers must provide all relevant information requested by the department during an audit.

**P.** Payments are made to the provider for the period covered in the placement agreement or based on the availability of funds.

[8.15.2.17 NMAC - Rp, 8.15.2.17 NMAC, 10/1/2016; A, 10/1/2019, A/E, 03/16/2020]
Affidavit of Publication
Ad # 0004220891
This is not an invoice

CHILDREN YOUTH & FAMILIES
PO DRAWER 5160
SANTA FE, NM 87502-5160

I, a legal clerk of the Las Cruces Sun News, a newspaper published daily at the county of Dona Ana, state of New Mexico and of general paid circulation in said county; that the same is a duly qualified newspaper under the laws of the State wherein legal notices and advertisements may be published; that the printed notice attached hereto was published in the regular and entire edition of said newspaper and not in supplement thereof on the date as follows, to wit:

06/09/2020

Desponent further states this newspaper is duly qualified to publish legal notice or advertisements within the meaning of Sec. Chapter 167, Laws of 1937.

[Signature]
Legal Clerk

Subscribed and sworn before me this June 9, 2020:

[Signature]
State of WI, County of Brown
NOTARY PUBLIC

[Signature]
My commission expires
SHELLY HORA
Notary Public
State of Wisconsin

Ad # 0004220891
PO #: 68612
# of Affidavits: 1

This is not an invoice
NOTICE OF RULEMAKING
AND PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14-4-5.2 NMWA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding SOCIAL SERVICES CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS as authorized by Section 9-2A-7 NMWA 1978:

8.15.2.10 NMAC – APPLICATION PROCESS
8.15.2.13 NMAC – CLIENT RESPONSIBILITIES
8.15.2.17 NMAC – PAYMENT FOR SERVICES

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules:
The purpose of the rulemaking is to promulgate amendments to 8.15.2 NMAC, which were initially published as emergency rules effective March 16, 2020. Due to the COVID-19 outbreak and the resulting executive orders and declarations, there was an emergency need for these amendments. The emergency amendments to 8.15.2 NMAC, as published, allow the department secretary the following authority during a public health emergency: to waive the requirements for employment, attending school or a training program; to waive copayments for families receiving child care and pay the provider the clients approved rate; and to approve a differential rate be paid to licensed providers.

Copies of the proposed amended rules may be found at end of this notice and at CYFD’s website at https://www.newmexicokids.org/30 days prior to the Public Hearing.

Notice of public rule hearing: The public rule hearing
will be held on July 14, 2020, at 1:00 p.m. The hearing will be held via internet, email, and telephonic means due to the concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham’s Executive Order 2020-014, Declaration of Public Health Emergency and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at debra.gonzales@state.nm.us. CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Notice of acceptance of written public comment:
Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may be submitted via email to CYFD-ES-PublicComment@state.nm.us with the subject line “8.15.2 NMAC, Public Comment” or via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160. Written comments may be delivered to the Old PERA building at 1120 Paseo De Peralta on July 14, 2020 from 1:00 pm to 3:00 pm. The comment period ends at the conclusion of the public hearing on July 14, 2020.

Any interested member of the public may attend the hearing via the internet or telephone and offer public
comments on the proposed rule during the hearing. To access the hearing by telephone: place call 1-253-215-8782, access code 9135582922#. You will be able to hear the full hearing and your telephone comments will be recorded. To access the hearing via the internet: please go to https://zoom.us/j/9135582922, and follow the instructions indicated on the screen. Meeting ID (access code): 9135582922. This will be a live stream of the hearing. You may also provide comment via Chat during the live streaming.

AVISO DE PROMULGACION DE LEYES ADMINISTRATIVAS Y AUDIENCIA PUBLICA

El Departamento de Niños, Jóvenes y Familias de Nuevo México por este medio da aviso como es requerido bajo la Sección 14-4-5.2 NMSA 1978 y 1.24.25.11 NMAC, que propone adoptar enmiendas a las siguientes reglas con respecto a LOS REQUISITOS DE ASISTENCIA DE LOS SERVICIOS SOCIALES PARA EL CUIDADO INFANTIL PARA PROGRAMAS DE ASISTENCIA DE CUIDADO INFANTIL Y PARA PROVEDORES DE CUIDADO INFANTIL según autorizado por la sección 9-2A-7 NMSA 1978:

8.15.2.10 NMAC – PROCESO DE SOLICITUD
8.15.2.13 NMAC – RESPONSABILIDAD DEL CLIENTE
8.15.2.17 NMAC – PAGO POR SERVICIOS

No se consultó información científica o técnica cuando se redactaron estas propuestas de leyes administrativas.

Propósito de las propuestas de leyes administrativas: El propósito de las leyes administrativas es enmendar los requisitos bajo 8.15.2 NMAC las cuales fueron inicialmente publicadas como reglas de emergencia con fecha efectiva marzo 16 del 2020. A causa de la erupción de COVID-19 y el resultado de la orden ejecutiva y
declaraciones, que existía una necesidad emergente para estas enmiendas. Las enmiendas de emergencia para 8.15 2 NMAC, como fue publicada, le permite al secretario del departamento la siguiente autoridad durante una emergencia de salud pública: que elimine los requisitos de empleado, asistir a la escuela o programa de capacitación, eliminar co-pagos para las familias que reciben cuidado infantil y pagar al proveedor la cantidad aprobada a los clientes; y a aprobar una cantidad diferencial de pago a los proveedores con licencia.

Copias de las propuestas de leyes administrativas pueden ser localizadas al final de este aviso y en el sitio de la red de CYFD en https://www.newmexicokids.org/ 30 días antes de la audiencia pública.

Aviso de audiencia pública de leyes administrativas: La audiencia pública de leyes administrativas será el 14 de julio del 2020 a la 1:00 p.m. Se llevará acabo por internet, correo electrónico y medios telefónicos a causa de preocupaciones acerca del COVID-19 y de acuerdo con la Orden Ejecutiva 2020-004 de la Gobernadora Michelle Lujan Grisham; Declaración de Emergencia de Salud Pública de marzo 12 del 2020 y la Orden de Emergencia de Salud Pública que Limita Reuniones Masivas a causa de COVID-19. La audiencia pública será conducida de una manera justa y con igualdad por un representante u oficial de la agencia de CYFD y será grabado. Cualquier miembro del público interesado en asistir a la audiencia tendrá una oportunidad razonable para ofrecer comentarios, ya sean oralmente o por escrito, incluso una presentación de datos, puntos de vista o argumentos, sobre las propuestas. Personas con discapacidades que necesiten cualquier forma de asistencia auxiliar para asistir o participar en la audiencia pública deben comunicarse con Debra Gor-
zales, a: debra.gonzales@state.nm.us. CYFD hará todos los esfuerzos posibles para acomodar todas las solicitudes razonables, pero no puede garantizar acomodar solicitudes que no sean recibidas por lo menos diez días de calendario antes de la fecha programada para la audiencia.

Aviso de aceptación de comentario público por escrito: Comentarios públicos por escrito, incluso presentaciones de datos, puntos de vista o argumentos de cualquier miembro del público interesado, sobre las propuestas de leyes administrativas, pueden ser enviados a través de correo electrónico a: CYFD-ECSSPublicComment@state.nm.us, especificando en la línea de Asunto: "8.15.2 NMAC Public Comment," o por correo de primera clase a P.O. Drawer S160, Santa Fe, New México 87502-5160. Comentarios por escrito pueden ser entregados en el edificio antiguo PERA ubicado en 1120 Paseo De Peralta el día 14 de Julio del 2020 de la 1:00 pm a las 3:00 pm. El período de comentarios termina a la conclusión de la audiencia pública del 14 de julio del 2020.

Cualquier miembro del público interesado puede atender a la audiencia por medio de internet o teléfono y ofrecer comentario público sobre la propuesta de leyes administrativas durante la audiencia. Para accesar la audiencia por medio de teléfono: llame al 1-253-215-8782 con código de acceso 91353582922#. Usted tendrá la habilidad de escuchar toda la audiencia y sus comentarios serán grabados. Para accesar la audiencia por medio de internet: por favor diríjase a https://zoom.us/j/1353582922, y siga las instrucciones indicadas en la pantalla. Meeting ID: código de acceso: 91353582922. Esto será una forma de audiencia en vivo. Puede proveer sus comentarios por medio de la función de Chat durante la
audiencia en vivo.
#4220891, Sun-News, Jun 9, 2020
CHILDREN YOUTH AND FAMILY.
PO BOX 5160
SANTA FE, NM 87502

ACCOUNT: 2034
AD NUMBER: 0000279502
LEGAL NO 87218 P.O. #: 69000-0000068601
1 TIME(S) 483.48
AFFIDAVIT 10.00
TAX 41.64
TOTAL 535.12

AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO
COUNTY OF SANTA FE

I, C. Valdez, being first duly sworn declare and say that I am Legal Advertising Representative of THE SANTA FE NEW MEXICAN, a daily newspaper published in the English language, and having a general circulation in the Counties of Santa Fe, Rio Arriba, San Miguel, and Los Alamos, State of New Mexico and being a newspaper duly qualified to publish legal notices and advertisements under the provisions of Chapter 167 on Session Laws of 1937; that the Legal No 87218 a copy of which is hereto attached was published in said newspaper 1 day(s) between 06/09/2020 and 06/09/2020 and that the notice was published in the newspaper proper and not in any supplement; the first date of publication being on the 9th day of June, 2020 and that the undersigned has personal knowledge of the matter and things set forth in this affidavit.

\[Signature\]

LEGAL ADVERTISEMENT REPRESENTATIVE

Subscribed and sworn to before me on this 9th day of June, 2020

Notary

Commission Expires: 2-20-22
AFFIDAVIT OF PUBLICATION
STATE OF NEW MEXICO

County of Bernalillo        SS

Elise Rodriguez, the undersigned, on oath states that she is an authorized Representative of
The Albuquerque Journal, and that this newspaper is duly qualified to publish legal notices
or advertisements within the meaning of Section 3, Chapter 187, Session Laws of 1937, and that
payment therefore has been made of assessed as court cost; that the notice, copy of which hereto
attached, was published in said paper in the regular daily edition, for 1 time(s) on the following
date(s):

06/09/2020

Sworn and subscribed before me, a Notary Public, in and
for the County of Bernalillo and State of New Mexico this
9 day of June 2020

PRICE $601.47

Statement to come at the end of month.

ACCOUNT NUMBER 1031081
AVISO DE PROMULGACIÓN DE LEYES ADMINISTRATIVAS Y AUDIENCIA PÚBLICA

El Departamento de Servicios Sociales para la Familia de Nuevo México publica este aviso administrativo según se dispone en el Artículo 44-6-2 NMSA 1978 y 12-4-25.11 NMAC. La Agencia propone adoptar enmiendas a las regulaciones de método en relación con los REQUISITOS DE ASISTENCIA DE LOS SERVICIOS SOCIALES PARA EL CUIDADO INFANTIL Y PARA PROVEEDORES DE CUIDADO INFANTIL, según autorizado por la sección 8-26-5 NMSA 1978.

4.152.10 NMAC - PROCESO DE SOLICITUD
4.152.15 NMAC - RESPONSABILIDAD DEL CLIENTE
4.152.17 NMAC - PASO POR SERVICIOS

La Agencia ha puesto a la disposición de las partes interesadas la propuesta de enmiendas a las regulaciones de método para un periodo de 30 días, del 15 de marzo al 15 de abril de 2020. Para cada enmienda se indica el número de la sección y corresponde con el número de su objeto.

Se invita a las partes interesadas a que participen en el proceso de promulgación de las regulaciones de método de la Agencia. Para ello, se puede enviar una comunicación por correo electrónico a servicios.sociales@nm.doc.gov o por medio de correo electrónico a services.sociales@nm.doc.gov.

Aviso de recepción de comentarios públicos: La Agencia de Servicios Sociales para la Familia de Nuevo México (NMSS) recibe comentarios públicos por escrito. Los comités estatales y locales pueden solicitar comentarios públicos.

Se puede enviar una comunicación por correo electrónico a servicios.sociales@nm.doc.gov o por medio de correo electrónico a servicios.sociales@nm.doc.gov. En el caso de propuestas de enmienda a las regulaciones de método, se pueden enviar comentarios por correo electrónico a servicios.sociales@nm.doc.gov.

 quienes deseen hacer comentarios están invitados a hacerlo por escrito a servicios.sociales@nm.doc.gov.

El plazo para hacer comentarios es hasta el 15 de abril de 2020. Los comentarios que se reciban después de este plazo no serán considerados.

Nota: Todos los comentarios que se envíen se publicarán en el sitio web de la Agencia de Servicios Sociales para la Familia de Nuevo México (NMSS).

Cualquier parte interesada puede asistir a la audiencia por medio de Internet o teléfono, y ofrecer comentarios públicos sobre la propuesta de enmiendas. Para hacerlo, se puede llamar al número de teléfono proporcionado en la propuesta de enmiendas. Se puede hacer una audiencia por medio de videoconferencia en el estado de Nuevo México. Para hacerlo, se debe llamar al número de teléfono proporcionado en la propuesta de enmiendas.

El Departamento de Servicios Sociales para la Familia de Nuevo México publica este aviso administrativo según se dispone en el Artículo 44-6-2 NMSA 1978 y 12-4-25.11 NMAC. La Agencia propone adoptar enmiendas a las regulaciones de método en relación con los REQUISITOS DE ASISTENCIA DE LOS SERVICIOS SOCIALES PARA EL CUIDADO INFANTIL Y PARA PROVEEDORES DE CUIDADO INFANTIL, según autorizado por la sección 8-26-5 NMSA 1978.

4.152.10 NMAC - PROCESO DE SOLICITUD
4.152.15 NMAC - RESPONSABILIDAD DEL CLIENTE
4.152.17 NMAC - PASO POR SERVICIOS

La Agencia ha puesto a la disposición de las partes interesadas la propuesta de enmiendas a las regulaciones de método para un periodo de 30 días, del 15 de marzo al 15 de abril de 2020. Para cada enmienda se indica el número de la sección y corresponde con el número de su objeto.

Se invita a las partes interesadas a que participen en el proceso de promulgación de las regulaciones de método de la Agencia. Para ello, se puede enviar una comunicación por correo electrónico a servicios.sociales@nm.doc.gov o por medio de correo electrónico a services.sociales@nm.doc.gov.

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El Departamento de Servicios Sociales para la Familia de Nuevo México publica este aviso administrativo según se dispone en el Artículo 44-6-2 NMSA 1978 y 12-4-25.11 NMAC. La Agencia propone adoptar enmiendas a las regulaciones de método en relación con los REQUISITOS DE ASISTENCIA DE LOS SERVICIOS SOCIALES PARA EL CUIDADO INFANTIL Y PARA PROVEEDORES DE CUIDADO INFANTIL, según autorizado por la sección 8-26-5 NMSA 1978.

4.152.10 NMAC - PROCESO DE SOLICITUD
4.152.15 NMAC - RESPONSABILIDAD DEL CLIENTE
4.152.17 NMAC - PASO POR SERVICIOS

La Agencia ha puesto a la disposición de las partes interesadas la propuesta de enmiendas a las regulaciones de método para un periodo de 30 días, del 15 de marzo al 15 de abril de 2020. Para cada enmienda se indica el número de la sección y corresponde con el número de su objeto.

Se invita a las partes interesadas a que participen en el proceso de promulgación de las regulaciones de método de la Agencia. Para ello, se puede enviar una comunicación por correo electrónico a servicios.sociales@nm.doc.gov o por medio de correo electrónico a services.sociales@nm.doc.gov.

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 quienes deseen hacer comentarios están invitados a hacerlo por escrito a servicios.sociales@nm.doc.gov.

El plazo para hacer comentarios es hasta el 15 de abril de 2020. Los comentarios que se reciban después de este plazo no serán considerados.

Nota: Todos los comentarios que se envíen se publicarán en el sitio web de la Agencia de Servicios Sociales para la Familia de Nuevo México (NMSS).

Cualquier parte interesada puede asistir a la audiencia por medio de Internet o teléfono, y ofrecer comentarios públicos sobre la propuesta de enmiendas. Para hacerlo, se puede llamar al número de teléfono proporcionado en la propuesta de enmiendas. Se puede hacer una audiencia por medio de videoconferencia en el estado de Nuevo México. Para hacerlo, se debe llamar al número de teléfono proporcionado en la propuesta de enmiendas.
Good morning!

We have uploaded the documents as requested and used the same format. The notice can be found on the NewMexicoKids.org announcements page or by going directly to this link:


Let us know if you have any questions, thanks!

Garrett Massey
Web Designer
Early Childhood Services Center
NewMexicoKids Resource and Referral
1634 University Blvd NE
Albuquerque, NM 87102
Support Line: 800-691-9067
Desk: 505-227-0376
www.newmexickids.org

Confidentiality Notice: This e-mail, including all attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information as defined under FERPA. Any unauthorized review, use, disclosure or distribution is prohibited unless specifically provided under the New Mexico Inspection of Public Records Act. If you are not the intended recipient, please contact the sender and destroy all copies of this message.

From: Gonzales, Debra A., CYFD <debra.gonzales@state.nm.us>
Sent: Tuesday, June 2, 2020 10:50 AM
To: Rachel Nowak <rachelmitchell@unm.edu>; Garrett Thomas Massey <garrettmassey@unm.edu>; Malisa Kasparian <mkaspari@unm.edu>; Kathleen Carroll <carrollk@unm.edu>
Cc: CYFD-ECS-PublicComment <CYFD-ECS-PublicComment@state.nm.us>; Vigil, Raymond P., CYFD <raymond.vigil@state.nm.us>; MontanoWhite, Katrina, CYFD <Katrina.MontanoWhit@state.nm.us>; DudleyChavez, Claire, ECECD <Claire.DudleyChavez@state.nm.us>
Subject: Post "NOTICE OF RULEMAKING AND PUBLIC RULE HEARING" for 8.15.2 NMAC

[EXTERNAL]

Hello Rachel,

Hope you are doing well😊
Attached is a "NOTICE OF RULEMAKING AND PUBLIC RULE HEARING" for 8.15.2 NMAC, which needs to be posted on the New Mexico Kids website by June 9, 2020. We will use the same format from last hearing. We will need to post public comments along with the rule record.

Thank you very much!

Debra A. Gonzales, Policy Compliance and Quality Assurance Manager
Office: 505.231-5820
Mobile: 505.231.5820
Fax: 505.476.0143
Email: Debra.Gonzales@state.nm.us
Web: www.cyfd.org

NEW MEXICO
Early Childhood
Education & Care Department

Information Governance
Program, Policy, Audit and Reports
providing essential data services for New Mexico children

PULLTOGETHER.ORG
We are improving the quality of life for our children.

Report suspected child abuse or neglect by calling #SAFE (#7233) from a cell phone or 1-855-333-SAFE.
Hi Debra, this is posted. Please review and let me know if there are any adjustments: https://cyfd.org/child-care-services.

Also, a couple of questions:

- Do you want to keep or remove the following (see screen print)?

- Any changes or updates to rulemaking on the right side menu?

Thank you!

Sylvia
Please place the below information on the Child Care Services page as listed below.

Children, Youth and Families Department (CYFD) is proposing regulation changes to 8.15.2 NMAC - SOCIAL SERVICES CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS.

A public rule hearing will be held on July 14, 2020, at 1:00 p.m. via internet, email, and telephonic means due to the concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham’s Executive Order 2020-004, Declaration of Public Health Emergency and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19.

Click link and send to: https://www.newmexicokids.org/

We will need this information posted by June 9, 2020.

Please let us know if you have any questions or concerns.

Thank you very much!!!

Deb
Proposed Rule Name:
8.15.2 NMAC SOCIAL SERVICES CHILD CARE ASSISTANCE
REQUIREMENTS
Agency:
Children Youth & Families Department
Purpose:
The purpose of the rulemaking is to promulgate amendments to 8.15.2 NMAC, which were initially published as emergency rules effective March 16, 2020. Due to the COVID-19 outbreak and the resulting executive orders and declarations, there was an emergency need for these amendments. The emergency amendments to 8.15.2 NMAC, as published, allow the department the following authority during a public health emergency: to waive the requirements for employment, attending school, or a training program; to waive copayments for families receiving child care and pay the provider the clients approved rate; and to approve a differential rate be paid to licensed providers.
Summary:
The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14 - 4 - 5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding SOCIAL SERVICES CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS as authorized by Section 9-b-4-7 NMSA 1978.
Administrative Codes:
http://www.arca.nm.gov/parts/9/b/9b00000.000.002.html
Rule Complete Copy:
Copies of the proposed amended rules may be found at end of this notice and at CYFD's website at https://www.newmexicokids.org
(https://www.newmexicokids.org) 30 days prior to the Public Hearing.
Corrections:
Click Here to access Rule Corrections (https://www.newmexicokids.org)
Rule Explanatory Statement:
Click Here to access the Rule Explanatory Statement (https://www.newmexicokids.org)
Related New Mexico Register Publications:
Click Here to access Related New Mexico Publications (http://it84.64.110.134/nmac/nmregister/xxx/CYFDnotice_0xxi_11.html)
For any additional information or questions concerning this rule making or posting please contact:
Kimberly Brown
cyfd-eco-publiccomment@state.nm.us
(505) 841-4901
Last Updated Date
6/9/2020 8:37 AM

How to submit Comments:
Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may be submitted via email to CYFD-ECO-PublicComment@state.nm.us
mailto:CYFD-ECO-PublicComment@state.nm.us with the subject line "8.15.2 NMAC Public Comment" or via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 - 5160. Written comments may be delivered to the Old PERA building at 1120 Paseo De Peralta on July 14, 2020 from 1:00 PM to 3:00 PM.
When are comments due:
The deadline for submitting comments has changed. The new deadline is shown below
7/14/2020 3:00 PM

Hearing Date:
The public rule hearing date/time has changed. The new date/time are shown below
7/14/2020 1:00 PM

Public Hearing Location:
The hearing will be held via internet, email, and telephonic means due to the concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham's Executive Order 2020-004. Declaration of Public Health Emergency and the March 12, 2020 Public Health Emergency Order to Limit Mass Gatherings Due to COVID-19. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. 7/14/2020 (1:00 PM - 5:00 PM)

How to participate:
Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at debra.gonzales@state.nm.us.
CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Any interested member of the public may attend the hearing via the internet or telephone and offer public comments on the proposed rule during the hearing. To access the hearing by telephone; phone: 1-855-251-6782, access code 913838222#. You will be able to hear the full hearing and your telephone comments will be recorded. To access the hearing via the internet; please go to https://zoom.us/j/913838222# and follow the instructions indicated on the screen – Meeting ID (access code): 913838222. This will be a live stream of the hearing. You may also provide comment via Chat during the live streaming.
Rule Hearing Search

Agency: Children Youth & Families Department

Deadline Date: All

Search

Proposed Rule Name:
8.15.2 NMAC EMERGENCY RULE AMENDMENT

Agency:
Children Youth & Families Department

Purpose:
The purpose of the rules is to amend the child care assistance requirements under 8.15.2 NMAC. Specifically, the following language has been added:
8.15.2.16 B (2) In the case of a public health emergency, the department secretary may waive the requirement for employment, attending school or a training program;
8.15.2.19 A. In the case of a public health emergency, the department secretary may waive co-payments for families receiving child care. The department will pay providers the client's approved rate, to include required co-payments, during the time of the public health emergency;
8.15.2.17 H. In the case of a public health emergency, the department secretary may approve a differential rate to be paid to licensed providers.

Summary:
These amendments are emergency rule amendments under NMAC 14-4-5.6. These are temporary rule amendments. Pursuant to 14-4-5.6 (E), these emergency amendments are not permanent. They will expire if no permanent rule is adopted within one hundred eighty days from the effective date of these emergency amendments. These amendments are necessary for the reasons outlined below. On March 11, 2020, New Mexico Governor Michelle Lujan Grisham issued an executive order (EO 2020-004), declaring a state of public health emergency for the State of New Mexico in response to confirmed cases of COVID-19.

Administrative Code:
http://www.srca.nm.gov/parts/_title28/03.015.0202.html

Rule Complete Copy:
Copies of the rule may be found at CYFD's website at https://www.newmexickids.org (https://www.newmexickids.org/)

Corrections:
Not available

Rule Explanatory Statement:
Click Here to access the Rule Explanatory Statement (https://www.newmexickids.org/)

Related New Mexico Register Publications:
Not available

For any additional information or questions concerning this rule making or posting please contact:
Debra Gonzales
.cyfd-ecr-publiccomment@state.nm.us
505-827-7266

Last Updated Date
3/16/2020 5:13 PM

If the document is not visible on the previewer, please download the file.

File Name: 8 15
File Type: PDF

View Document (https://state.nm.my.salesforce.com/af/op/41000000137C2a2M000001fQsUUt1waex2YsYbGpY3Y2_JMsoCtksF4gJCY7U_1xyuqbuY) 2_amend_emergency_posting
From: Gonzales, Debra, ECECD  
Sent: Friday, July 10, 2020 12:06 PM  
To: Gonzales, Debra, ECECD  
Subject: FW: NOTICE OF RULEMAKING AND PUBLIC RULE HEARING" for 8.15.2 NMAC  
Attachments: CYFD_8 15 2 notice_promulgate SRA 52820.pdf

From: Gonzales, Debra A., CYFD  
Sent: Tuesday, June 2, 2020 11:14 AM  
To: Brown, Kimberly, CYFD; Steward, Patricia A., CYFD  
Cc: CYFD-ECS-PublicComment  
Subject: NOTICE OF RULEMAKING AND PUBLIC RULE HEARING" for 8.15.2 NMAC

Hello,

Can you please ask all Child Care offices to post and make available the attached Notice?

We will need this done by May 9, 2020.

Please let us know if you have any questions.

Thank you very much!

Debra

Debra A. Gonzales, Policy Compliance and Quality Assurance Manager
Office: 505.231-5820  
Mobile: 505.231.5820  
Fax: 505.476.0143  
Email: Debra.Gonzales@state.nm.us  
Web: www.cyfd.org

NEW MEXICO
Early Childhood
Education & Care Department

Information Governance
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PULLTOGETHER.ORG
NOTICE OF RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Children, Youth and Families Department hereby gives notice as required under Section 14 - 4 - 5.2 NMRA 1978 and 1.24.25.11 NMAC that it proposes to adopt amendments to the following rules regarding SOCIAL SERVICES CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS as authorized by Section 9-2A-7 NMSA 1978:

8.15.2.10 NMAC - APPLICATION PROCESS
8.15.2.11 NMAC - CLIENT RESPONSIBILITIES
8.15.2.17 NMAC - PAYMENT FOR SERVICES

No technical scientific information was consulted in drafting these proposed rules.

Purpose of proposed rules: The purpose of the rulemaking is to promulgate amendments to 8.15.2 NMAC, which were initially published as emergency rules effective March 16, 2020. Due to the COVID-19 outbreak and the resulting executive orders and declarations, there was an emergency need for these amendments. The emergency amendments to 8.15.2 NMAC, as published, allow the department secretary the following authority during a public health emergency to waive the requirements for employment, attending school or a training program; to waive co-payments for families receiving child care and pay the provider the entitled approved rate; and to approve a differential rate to be paid to licensed providers.

Copies of the proposed amended rules may be found at the end of this notice and at CYFD’s website at https://www.newmexicokids.org 30 days prior to the Public Hearing.

Notice of public rule hearing: The public rule hearing will be held on July 14, 2020, at 1:00 p.m. The hearing will be held via Internet, email, and telephone means due to the concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham’s Executive Order 2020-008, Declaration of Public Health Emergency and the March 12, 2020 Public Health Emergency Order to Limit Gatherings Due to COVID-19. The public hearing will be conducted in a fair and equitable manner by a CYFD agency representative or hearing officer and shall be recorded. Any interested member of the public may attend the hearing and will be provided a reasonable opportunity to offer public comment, either orally or in writing, including presentation of data, views, or arguments, on the proposed rules during the hearing. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debra Gonzales at debra.gonzales@state.nm.us. CYFD will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days before the scheduled hearing.

Notice of acceptance of written public comment: Written public comment, including presentation of data, views, or arguments, on the proposed rules may be submitted via email to:

NM Center on Law and Poverty
Attn: Maria Griego

[Handwritten note: mailed 6/9/2020]
Children, Youth, and Families Department (CYFD) will hold a formal public hearing on proposed regulation changes to:

- 8.15.2 NMAC – Social Services - Child Care Assistance - Requirements for Child Care Assistance Programs for Clients and Child Care Providers

Attached is the Notice of Rulemaking and Public Rule Hearing.

They can also be found on the NM Kids website at www.newmexicokids.org

Debra A. Gonzales, Policy Compliance and Quality Assurance Manager
Office: 505.231-5820
Mobile: 505.231.5820
Fax: 505.476.0143
Email: Debra.Gonzales@state.nm.us
Web: www.cyfd.org

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We are improving the quality of life for our children.

Report suspected child abuse or neglect by calling #SAFE (#7233) from a cell phone or 1-855-333-SAFE.
Children, Youth, and Families Department (CYFD) will hold a formal public hearing on proposed regulation changes to:

- 8.15.2 NMAC – Social Services - Child Care Assistance - Requirements for Child Care Assistance Programs for Clients and Child Care Providers

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Attached is the Notice of Rulemaking and Public Rule Hearing.

They can also be found on the NM Kids website at www.newmexicokids.org

PLEASE BE ADVISED THAT THESE PROPOSED REGULATION CHANGES DO NOT AFFECT CURRENT ELIGIBILITY TO FAMILIES.

Debra A. Gonzales, Policy Compliance and Quality Assurance Manager
Office: 505.231.5820
Mobile: 505.231.5820
Fax: 505.476.0143
Email: Debra.Gonzales@state.nm.us
Web: www.cyfd.org

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We are improving the quality of life for our children.

Report suspected child abuse or neglect by calling #SAFE (#7233) from a cell phone or 1-855-333-SAFE.
Dear Providers,

Children, Youth, and Families Department (CYFD) will hold a formal public hearing on proposed regulation changes to:

- 8.15.2 NMAC – Social Services - Child Care Assistance - Requirements for Child Care Assistance Programs for Clients and Child Care Providers

Written public comment, including presentation of data, views, or arguments about the proposed rules, from any interested member of the public, may be submitted via email to CYFD-ECS-PublicComment@state.nm.us with the subject line "8.15.2 NMAC Public Comment" or via first class mail to P.O. Drawer 5160, Santa Fe, New Mexico 87502 – 5160. Written comments may be delivered to the Old PERA building at 1120 Paseo De Peralta on July 14, 2020 from 1:00 pm to 3:00 pm. The comment period ends at the conclusion of the public hearing on July 14, 2020.

Attached is the Notice of Rulemaking and Public Rule Hearing.

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We are improving the quality of life for our children.

Report suspected child abuse or neglect by calling #SAFE (#7233) from a cell phone or 1-855-333-SAFE.
As part of the New Mexico State Rules Act requirement of providing notice to the New Mexico Legislative Council for distribution to appropriate interim and standing legislative committees, attached a Notice of Rulemaking and Continued Public Rule Hearings for the following proposed change:

- 8.15.2 NMAC – SOCIAL SERVICES CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS

Please provide confirmation of receipt and distribution to appropriate interim and standing legislative committees.

Thank you.

Debra

Debra A. Gonzales, Policy Compliance and Quality Assurance Manager
Office: 505.231-5820
Mobile: 505.231.5820
Fax: 505.476.0143
Email: Debra.Gonzales@state.nm.us
Web: www.cfyd.org
As part of the New Mexico State Rules Act requirement of providing notice to the New Mexico Legislative Council for distribution to appropriate interim and standing legislative committees, attached a Notice of Rulemaking and Continued Public Rule Hearings for the following proposed change:

- 8.15.2 NMAC – SOCIAL SERVICES CHILD CARE ASSISTANCE REQUIREMENTS FOR CHILD CARE ASSISTANCE PROGRAMS FOR CLIENTS AND CHILD CARE PROVIDERS

Please provide confirmation of receipt and distribution to appropriate interim and standing legislative committees.

Thank you.

Debra

Debra A. Gonzales, Policy Compliance and Quality Assurance Manager
Office: 505.231-5820
Mobile: 505.231.5820
Fax: 505.476.0143
Email: Debra.Gonzales@state.nm.us
Web: www.cyfd.org
Pre-Hearing
Public Comments
(Redacted)
Hello.

Please make sure that the sec is only able to pay a differential rate that’s more not less. The wording makes it sound as if the dept SEC has the right to lower rates or higher rates or pay different rates. The wording needs to be more clear in that it doesn’t give the dept sec the right to lower anyone’s rate. I see from experience the dept makes decisions that aren’t always for the better of the long term of the dept. so I want to make sure that the dept doesn’t get the right to lower rates due to their flaws in knowing how to handle public emergencies. I worked hard for my star five accredited and I refuse to allow the dept the right to lower my rate.

Charles Nathan Brown, M.A.T.

Owner/Director/Provider/FOCUS
Nathans Home Childcare
5****Star Program.

“What lies behind you and what lies in front of you, pales in comparison to what lies inside of you.” —Ralph Waldo Emerson

*******Delete if sent in error and all attachments
*******Please excuse any misspelled words
Dear Committee members,

We are sure needing some help out here. As an industry, we needed help before the coronavirus came. Now, we have extra costs because of it. We are still having a hard time employing people to work in this essential environment because of not being monetarily being able to pay them more. None of this has been addressed. There is a ruling that is trying to be done by the CYFD for July 14th that does not raise any pay from our CYFD contracts one bit. We desperately needed the raise to compensate even for the raise in minimum wage increase that we have had since Jan. 1 of this year. Remember the 1.50 raise to the minimum wage? Many of us have been having to use whatever coronavirus relief that we have been getting to basically pay wages that should have already been covered by increasing the CYFD contracts before the raise in minimum wage hit. By saying that we are getting “Hazard Pay” it basically gave some relief to the workers a way to give them monetarily what they should have had Jan 1 of this year.

We are being constantly bombarded with updates that are hard to keep up with. I realize the updates are good but many of us do not have the staff to have a "dedicated person for this task" a lot of the reason is that we don't have the money needed for their wages and I am really hoping that at least some of us are reaching out to you guys as legislative people to help alleviate this problem. We really need be able to hire more people to keep up with sorting all the extra information out, conveying it to parents and helping us to stay in compliance with things the best we can. We have such a work load that increased with not even the basic staffing to care for it much of that has to do with we don't have the monies coming in to suffice getting the job done efficiently. Don't forget, the children are a vital part of our business and much of our time has to be dedicated to them or chaos reigns. We need extra monies to hire extra staffing. We need the extra monies to be able to pay these people appropriately also. Doesn't anyone hear us?

Another issue that desperately needs addressed is that we have ben told to have our substitute list ready in case some of our staff test positive on the corona virus. The trouble with that is that we have been having enough trouble just to keep ourselves staffed regularly. I must have hired 8 girls last year for the same position. Not everyone has the stamina or the want to to care for children. The substitute pool is virtually nonexistent for many of us. Also, if we have to shut down for two weeks because of the corona virus, what are we to do for income? Is our staff supposed to be paid and from what? What do we have to pay them from? We have been basically trying to pay their 9.00 an hour wage. If we don't
have money coming in for those two weeks, there isn't really anything to pay their wages with, is there? Has this need been addressed? What are we supposed to do? What about our clientele? Are they just to hop from provider to provider? Our whole clientele is at risk and at risk for virtually not coming back. That means our businesses could be forced to start from scratch. I am afraid that would mean not a lot of money coming in to even pay for wages again. All of these issues need addressed in the special session.

What if this happens a second time to us? What then. Please respond to this email when you receive it and let me know what is being done to care for these issues.

On page 6 and 7 of the proposal that has been sent forth for public comments contains old information. In there, it states stuff that was there from 2017 as regards CYFD contract amounts. It shows no raises of any sort that has taken into account that we have had inflation over the years, let alone the 20% increase in the minimum wage that happened in Jan. These CYFD contracts need to be raised immediately to off set the wage increase that has already happened. For licensed providers such as myself that have to depend on pulling 3 wages out of my business, I need at least 75.00 increase a kid in order to just stay at the place that I was Dec. 2019. Also, we need to address what will happen again Jan 1 of 2021 when we increase wages another 1.50. The contracts are going to have to go up again in order for us to maintain that rate of pay or it will potentially run us out of business. We can't always guarantee that we will be able to hold the contracts that can bear the most potential for us. We also can't always guarantee that we will remain full. To remain viable in business, we need to be able to run efficiently on 75% of our potential. This allows us for needed repairs, growth and such for the business which is basically going to be able to help our families to thrive and prosper.

Please address each and every issue that is outlined here. These issues are so important for not only our businesses but ultimately it is the children and families that we serve. If things don't add up well as they have been outlined for you, they will not add up well for our communities either.

Sincerely,

Millie Weed
Director/Owner
Kid Care
Concerns for 2020 from Rural New Mexico

My name is Millie Weed. I operate a home childcare center that is Nationally Accredited. I have a total staff of 3, including myself and we care for 10 children. Recently, we have had some big changes across the state of New Mexico. There has been a 20% raise in the minimum wage Jan. 1 2020. This has had a really big impact on our childcare business. We have had our business for 15 years. For the last 13 years, we have been Nationally Accredited along with holding a NM State Accreditation since, NM has started doing accreditations. Our childcare business is largely supported by our state CYFD contracts mainly because we just can’t generate the revenue in our rural area from private pay to effectively pay for things like wages and overhead costs.

We are experiencing the dual effect of State budgetary levels not keeping pace with the mandated wage increases. Even prior to the recent January 1, 2020 event, there also needs to be addressed the effect of not having state CYFD contracts rise in about 4 years to even counteract normal yearly inflation rates. That in itself, had left our budgets going in reverse. This combined effect of not keeping state CYFD contracts current in line according to the rate of inflation plus, adding the 20% wage increase on top of it, as this has been mandated statewide without the due compensation from the state, has been devastating. I suspect this effect has been widespread over New Mexico’s rural areas. One of the basic principles in life that most of us learn is that when mistakes have been made that actually hurt other people, honest people step up and make adjustments quickly. They don’t just look the other way or pretend that the problem doesn’t exist. In this case, if you don’t do something quickly to fix this problem, you would be pretending that the crisis that rural NM childcare industry has been thrown into simply does not exist.

There is much overhead to running a childcare business. We have basic things to consider, such as, some children are rougher on things than other children. This, in itself, makes for more maintenance than even what would be necessary if all children that came in were easy on equipment and/or supplies. The utility bills alone can be enormous. More examples are that my water bill can run easily about 250 a month in the summer time because we have grounds to keep up plus, we have a lot of general water use. In other months, it still costs a pretty penny with all the toilet flushing, hand washing, running the dishwasher and laundry machine. Not many people would like to have my electric bill when it comes to the electric that it takes for the heating and cooling. X-cel Energy sends me regular reports that my house consumes up to 90 % or more electric than my surrounding neighbors. In addition, there are insurances, FICA taxes, slow paying or even at times, the customers that do not even pay their child care bill. Many times, not all of the food bill is covered and the business basically donates in that area when the children are extra hungry or they come to the daycare not fed. Maintenance needs planned for such things as having to replace big ticket items like appliances, flooring and refurbishing things like the bathroom since it sees a lot of heavy use. This list goes on and on with many things too numerous to mention here but surely you get the point.

This money all has to come from somewhere. There is no guarantee that we will be full all the time or that we will even have the most optimum contracts in place to pay bills. We care for infants through 12 years of age at our group daycare home. Our kids are reading site words when they go to kindergarten and doing simple addition and subtraction. They are able to interact in an acceptable social way because they are socially and emotionally literate. Not everybody is well served in a bigger situation. Not every family’s needs are met in a larger setting. This is where quality group daycares step in. This is whether we are talking about the social emotional needs of the children or even the general pick up/drop off times. We also provide much tutoring and guidance and kids come out well-adjusted by learning how to treat younger and older ones at the same time. They do this by working with their age group part of the day and also mixing with other age groups during part of the day while being supervised. It allows for siblings to see and spend time with each other. We have found that it promotes an even stronger bond of unity within the families. Which leads to more socially and emotionally stable children.

To run my group daycare home, it takes at least 3 people and at times, other people have to be called in to do jobs for the business periodically such as for deep cleaning and book keeping. I am here for the early contracts and I am here for
Concerns for 2020 from Rural New Mexico

the late contracts. I work some fairly long hours. My day, many times, starts at 5:30 am and even if the kids are able to leave by 5:30 pm and, at times 6:00 pm, I’m still catching things like the left-over dishes, laundry detail or paperwork. Many times, we are under pressure because we can’t all the time get our paperwork done while we are actively watching children or even when the majority are sleeping at naptime. At times, there are children that have a hard time with nap time for whatever reason and we are actively tending to those needs. If this is not happening, many times that time is took up cleaning or getting things ready for them for the activities they are to have when they wake up. This happens M-F. This is why the long day gets split up between 2 assistants because no one would tolerate the long hours that I dedicate to the profession. Admittedly, these long hours. As a reprieve, I really try to have nothing left for the weekend so, my personal necessities can be tended to. Currently, since Jan. 1, 2020, I have been having to pay 450 more a month in wages. To cover that, I have had to donate “volunteer” hours in the amount of what would be worth 500 a month from my current salary base (which should be going monthly into my retirement account but now, there is nothing going there) because the money had to come from somewhere. Next Jan., it will be 1000. How long as directors/owners do you expect us to continue to have the same per hour as we bring our new inexperienced people on at because we “need to cover” their checks?? And at that rate, having the director to donate part of their hard-working hours as “volunteer?” This all done basically so other people can make their wage and maintenance/overhead can get paid? Isn’t this actually called having NM cheat others out of not only their hours and their energy also? That is what is currently happening. Do you know what it feels like to be continually cheated out of your time and energy? Would you stand for it in your job? Can you in good conscience ask others to stand for it on theirs? What’s happening now is called just standing by and watching rural NM bleed. If you are not standing by, are you then actively doing something about it? If so, exactly what? Because what’s happening now doesn’t make business sense. How am I supposed to really pay for the rising cost of maintenance and supplies? I don’t have a clue how that’ll work Jan 1, 2021 when things raise again.

Enclosed you will find a sample of one of our 4-year old’s morning work that he chooses to do during free play. He is getting the hang of spacing and how upper-case letters are a definite size and lower-case letters are a definite size. We asked him what it said and he ran his finger from left to right across the letters and smiled while he said, “It says not to sass your teachers!” We are so proud of him. We have had him since he was 8 mos. We move all our children through their milestones by giving each one individual attention and training that actually follows them from infancy all the way through our specific preschool program and beyond. Plus, it works well their individual personalities. Our other children are doing well also. This particular 4 yr. old will be the envy of any Kindergarten teacher with the skills that he has acquired while attending our group daycare.

If I retire at 62, my social security will gross $____ per year. Could you live on that? After all that I have given the industry, don’t I deserve a chance to try to put some money aside for retirement? I won’t be able to work forever and I know that. Are you interested in only having the quality group homes out here just barely surviving or even surviving at all? Is that going to encourage more quality homes to pick up this profession or is it even being supportive of quality homes that obviously are producing fantastic results and by the people that are obviously experienced? If you don’t reach out to do something to retain these kinds of people in the childcare industry such as myself, where are you going to be shortly?

We provide excellent support to our early childhood education system. Our results with the children show this. We have done so for 15 years. If this is deficit is at all allowed to continue in such a crisis, the state will destroy our seasoned, accredited rural child care. NM cannot wait to take action in a few months down the road on this. It needs action and it needs it NOW!! When the quality childcare suffers, our NM children end up suffering right along with it. Do you want that on your conscience? What do you think this will do for the future of NM if our children don’t receive the very best individualized care that meets their particular needs and their families? What kind of leaders are we truly building for NM? The urgency of this crisis just can’t be minimized or swept under the rug for a period of time without devastating effects. IF you care at all, you are not in a position to sit and passively wait. You have to get up and ACT NOW!
When we tried to raise private pay for childcare in our rural NM area 2 years ago...

I have an accredited group home in Clovis, NM. In our rural area, the parents are either on the CYFD subsidized contracts or they are just above the cutoff line to qualify for those subsidized contracts. I realize that my experience is mirrored through many rural NM communities. For us, we knew that our CYFD state childcare contracts is what really helped our business to stay afloat in our area of rural NM. As we had not heard of any forthcoming increase in the state CYFD contracts to cover the cost of inflation that we had had for the past 2 years, we decided that surely, we could get some relief from the private sector since their rates were substantially lower than what our CYFD contracts brought in. As we did this, one of our long-standing moms got so upset with us that she demanded to know exactly what the raise was for. She indicated that she was paying really just what she could afford now. She actually cornered each one of the employees, at different times and point blank asked them if they were getting a raise. This so surprised the employees. They let her know that not to their knowledge were they getting a raise. She then let them know that they should be since things were going up around here. That started to break down the moral of my employees and I eventually lost one employee on account of that incident.

That mom tried to recruit others to her cause but I was so thankful that the ones that she did end up talking to were moms that had state CYFD contracts and I eventually was able to visit more with her and told her that with anything that dealt with the business, that I would appreciate it if she would speak to me. She agreed but it wasn’t even 2 weeks and she had her son to a place that didn’t charge private pay like I was needing to in order to keep up with inflation.

I am telling you this to let you know that it is not simply just a matter of charging the private pay more in what really is an impoverished area. They will not stand for it. They do not really have it to give. They will go elsewhere for childcare. Where they end up going is easily to places that are not regulated and the quality just isn’t there. Being an accredited group daycare home, we provide vital support to young children.

You have heard my story about with the 20% wage increase of Jan. 1 and there has been no forthcoming increase in the state CYFD contracts. In my program, this resulted in me being forced to put in “voluntary hours” plus to take the 500 a month that I was needing to go to my retirement fund because if I retire at 62, my social security will only gross $2000. That won’t be enough to live on. This in itself puts qualified, experienced early childcare supports like my accredited group home in jeopardy.

Our rural NM needs to help immediately in this critical situation by increasing the state CYFD childcare subsidies to not only match the 20% increase in minimum wage but to adjust additionally for the rise in inflation of the last 4 years to the goods/services that our businesses have depended on that have not been accounted for. Please use this critical model as a stepping stone to adjust things as we go forward because we will go through the exact same thing as the wage increases to 10.50 Jan 1, 2021 and increases to 12.00 Jan1, 2022. Please don’t undercut us in this area. It is imperative that we get such help without any delay.

Thank you for your help,

Millie Weed
Once again Early Childhood Education is struggling. We have proved during this one that we are absolutely essential. As a community we have stepped up to ensure our most vulnerable are cared for. And once again we are asked to do more with less. We've faced the first step of the minimum wage increase, we've had families forced to withdraw, we've continued to educate our staff, drop our ratios and yet despite all this, our reimbursement rates have seen very little, if any changes over the last several years. We hear about a "well compensated work force" yet we are not given the support to do so. We cannot retain our private pay clients if we're forced to increase rates solely on our private pay clients. Please consider reexamining the subsidy rates for the providers.

Sincerely,
Leslie Robertson
Tadpoles Daycare

Sent from Yahoo Mail on Android
Exhibit 1 –
Public Hearing
Comments (Redacted)
July 14, 2020

Kimberly Brown
Children Youth, and Families Department
Santa Fe, NM

Via Email: CYFD-ECS-publiccomment@state.nm.us

Re: 8.15.2 NMAC Public Comment

Ms. Brown:

Please accept the following comments on the proposed revisions to 8.15.2 NMAC regarding the Children, Youth, and Families Department’s (the Department) child care assistance program.

The undersigned organizations have extensive experience working with New Mexico families to ensure they have access to basic services that improve the lives of children, particularly those in low-income families. We have first-hand experience assisting families in accessing child care in New Mexico. We have seen the benefits to families who are able to access affordable child care and are aware of administrative barriers that prevent eligible families from receiving assistance.

We thank the Department for taking steps to make access to child care easier during the public health crisis and for making the emergency rules permanent. We ask the Department to maintain the waiver of work and school requirements, as well as the waiver of co-payments until the public health and economic emergencies subside. If the Department does decide to end those waivers, we ask that the Department implements a gradual phase-in rather than immediately implementing these requirements. We also ask the Department to engage in an outreach and public information campaign to ensure that families are aware of these rule changes, and to ensure that families know how to access child care assistance.

Maintaining Access to Child Care is Critical

Child Care Assistance is always a critical work support for families. That does not change during a pandemic. However, the current pandemic has shown that flexibility is needed to ensure that child care is accessible for families at a time when some, like those in healthcare, may be working increased hours, while others cannot continue their educations or go to work due to pandemic-related closures. Therefore, we thank the Department for waiving work and school requirements, as well as co-payments on an emergency basis. We also appreciate the Department’s current rulemaking which will promulgate these changes into the New Mexico Administrative Code consistent with the State Rules Act. This will make these flexibilities permanent and give the Secretary the authority to waive these requirements more easily during public health emergencies.
Phase In Work and School Requirements, as well as Co-Payments to Avoid an Additional Cliff Effect

Families often face the choice between accepting pay increases at the expense of an abrupt end to child care assistance or a large increase in co-payments. Accepting a pay increase and losing a critical work support like child care assistance creates a “cliff effect,” because this situation can cause a family to be in a financially worse situation, even though they received an increase in pay. Among public benefits in New Mexico, the child care assistance cliff effect is severe due to the high cost of child care, and high co-payments for child care assistance. Therefore, we ask the Department to ease the burden on families by avoiding an abrupt end to the new waivers and flexibilities implemented as a response to the current pandemic. The Department can do this through a gradual phase-in of work and school requirements, as well as co-payments when the health and economic crises subside. Additionally, the Department should exclude hazard pay from income calculations, so hazard pay does not affect eligibility. The Department should also effectively communicate with families that the waivers will be phased out to give families notice and time to plan for the increased financial burden they will have when the waivers expire.

Make Sure Families Know How to Access Child Care Assistance

Lastly, we ask that the Department engage in an outreach and a public information campaign to make sure that families know about the rule changes and increased flexibilities in the Child Care Assistance Program. The Department can create materials and partner with community-based organizations, child care providers, and public school districts to disseminate information on the new rules that make child care more accessible in these extraordinary times. The Department should also post this information on its website and at child care field offices across the state.

Sincerely,

Is/ Tim Davis
NM Center on Law and Poverty

Matthew Henderson and Erica Gallegos
Organizers in the Land of Enchantment “OLÉ”

James Jimenez
New Mexico Voices for Children

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1 See Armelle Casau and Sara Hyde, The Cliff Effect: One Step Forward and Two Steps Back. New Mexico Voices for Children November 2018. Available at: https://www.nmvoices.org/archives/11584
From Felicia Juarez to Everyone: 01:19 PM
Felicia from Little Steps Learning Center in Roswell, NM. Question: Are there going to be adjustments to the reimbursement rate we are receiving in State assistance contracts due to the mandate that centers keep ratios at a FOCUS 4-Star requirement. Will contract reimbursement reflect this?